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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

11 Cr. 62 (PAC)

DONNA LEVY,
DAVID LEVY,

Jury Trial

Defendants.

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New York, N.Y.
March 11, 2013
10:19 a.m.

Before:

HON. PAUL A. CROTTY

District Judge

APPEARANCES

PREET BHARARA

United States Attorney for the
Southern District of New York

CARRIE H. COHEN

HOWARD S. MASTER

Assistant United States Attorneys

HOWARD M. SREBNICK

NOAH FOX

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Attorneys for Defendant Donna Levy

GERALD L. SHARGEL

ROSS M. KRAMER

JENNIFER HAYS

Attorneys for Defendant David Levy

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1 (Trial resumed)

2 (Jury not present)

3 THE COURT: Mr. Shargel, I understand there's
4 something you want to take up.

5 MR. SHARGEL: Yes, your Honor. We submitted last
6 night a proposed instruction.

7 THE COURT: Yes.

8 MR. SHARGEL: I don't think there's any quarrel about
9 the instruction.

10 THE COURT: I'm sure there isn't.

11 MR. SHARGEL: But the conversation if I may say that
12 I've had with Ms. Cohen is this: We request and I think like
13 with any other piece of evidence that's admitted under Rule
14 105, limited admissibility, that you give the instruction at
15 the time that the testimony is going to be heard; and the
16 government thinks that you should wait until the instruction,
17 final instructions.

18 I don't mind having it in the final instructions as
19 well, but I certainly think where you have limited
20 admissibility that the jury should know that at the time it's
21 admitted.

22 THE COURT: All right. Ms. Cohen, have you submitted
23 a response?

24 MS. COHEN: No, your Honor. I mean the text of the
25 instruction the government does not object to.

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1 THE COURT: I know. I understand.

2 MS. COHEN: But the government doesn't believe there's
3 any authority to give that type of instruction. It's not
4 really a limiting instruction the same way a 404(b) would.

5 THE COURT: Do you cite a case, Mr. Shargel?

6 MR. SHARGEL: Yes, I cited a case for the instruction.

7 MS. COHEN: In that case it was given as part of
8 the -- it was not given as part of the --

9 THE COURT: Judge Elfvin up in the Western District of
10 New York, at the close of evidence he gave the instruction.
11 You want it right after he testifies.

12 MR. SHARGEL: Yes, and I think that is common
13 practice.

14 THE COURT: Really?

15 MR. SHARGEL: Yes, I really do.

16 THE COURT: All right.

17 MR. SHARGEL: You know, Judge, it makes perfect
18 sense -- may I say this -- for the following reason.

19 THE COURT: Sure.

20 MR. SHARGEL: It makes perfect sense because
21 essentially you're saying you can consider this testimony --
22 let's put aside 105 and 404(b) -- you can consider this
23 testimony essentially for this, a limited purpose. You are not
24 to -- I don't have it in front of me, but you are not to
25 consider it on the issue as evidence of codefendant's,

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1 nonpleading codefendant's guilt, so.

2 THE COURT: When is this going to come up?

3 MR. SHARGEL: Today, this morning. And just to finish
4 the thought, if the instruction were not given, then the jury
5 for the remainder of the trial until they hear the final
6 instructions would have --

7 THE COURT: They already heard it in the preliminary
8 instructions.

9 MR. SHARGEL: I don't think in the same words as the
10 *Prawl* case.

11 THE COURT: I'm sure not. I told you that you're
12 going to hear testimony from cooperators which has to be viewed
13 with close scrutiny.

14 MR. SHARGEL: But you didn't address the issue that's
15 addressed in *Prawl*.

16 THE COURT: I'm not going to come to this this
17 morning, so. You don't want it before he testifies?

18 MR. SHARGEL: No. I just wanted it at the time that
19 he does testify. That will happen this morning.

20 THE COURT: OK. The jury is here so we'll call them
21 in.

22 MR. SREBNICK: Judge, I have one issue. I think we
23 have an agreement. May I be heard, on this witness, on
24 Mr. Fotis Georgiadis, that there will be no mention that your
25 Honor is the judge who would be sentencing him.

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1 THE COURT: There never is.

2 MR. SREBNICK: And, indeed, that there should be no
3 mention along the lines of Mr. Shargel's issue that he has pled
4 guilty to conspiring with the defendants here in the courtroom
5 because that might lead the jury to believe that a judge has
6 made a finding that there indeed was a conspiracy with these
7 defendants.

8 MS. COHEN: There will be no reference to the fact
9 that when he pled guilty it was in this courtroom. Of course
10 there will be reference to the fact he pled guilty to
11 conspiring with these defendants.

12 MR. SREBNICK: I object to that.

13 THE COURT: Call in the jury.

14 (Continued on next page)

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1 (Jury present)

2 THE COURT: Good morning. Everybody set your clocks
3 ahead? Please be seated.

4 Call your witness.

5 MR. MASTER: Your Honor, at this time the government
6 calls Fotis Georgiadis.

7 FOTIS GEORGIADIS,

8 called as a witness by the Government,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MASTER:

12 THE COURT: OK, Mr. Master.

13 MR. MASTER: Thank you, your Honor.

14 Q. Mr. Georgiadis, how old are you?

15 A. Thirty-eight.

16 Q. Where were you born?

17 A. Germany.

18 Q. How old were you when you came to the United States?

19 A. Three.

20 Q. And have you lived here since you were three years old?

21 A. Yes.

22 Q. Where did you grow up?

23 A. In New London, Connecticut.

24 Q. How far did you go in school?

25 A. Eleventh grade.

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Georgiadis - direct

1 Q. Are you married?

2 A. Yes.

3 Q. How many children do you have?

4 A. Three.

5 Q. How old are they?

6 A. Seven, four, and four.

7 Q. Who else lives with you?

8 A. My parents.

9 Q. You're here as a cooperating witness for the government,
10 correct?

11 A. Yes.

12 Q. And as a cooperating witness you pleaded guilty to certain
13 crimes?

14 A. Yes.

15 Q. What crimes did you plead guilty to?

16 A. Conspiracy to commit securities fraud and wire fraud and
17 securities fraud.

18 MR. SHARGEL: I ask for the instruction, most
19 respectfully.

20 THE COURT: Denied.

21 Go ahead.

22 Q. And with whom did you conspire to commit securities fraud
23 and wire fraud?

24 MR. SREBNICK: Objection, your Honor.

25 THE COURT: Overruled.

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1 You can answer the question.

2 A. David Levy and Donna Levy.

3 Q. And what security does the securities fraud charge relate
4 to?

5 A. Cardiac Network.

6 Q. And with whom did you commit securities fraud concerning
7 Cardiac Network?

8 A. David Levy and Donna Levy.

9 Q. Now, before you pleaded guilty, did you sign an agreement
10 between yourself and the United States Attorney's Office?

11 A. Yes.

12 Q. Did you read the agreement before you signed it?

13 A. Yes.

14 Q. I'm showing you what's been marked for identification
15 purposes as Government Exhibit 3503-13.

16 Do you recognize that document?

17 A. Yes.

18 Q. What is that document?

19 A. This is my cooperation agreement.

20 Q. And is your signature on the last page? It's double-sided.

21 A. Yes.

22 Q. Now, have you been sentenced yet for the crimes you pleaded
23 guilty to?

24 A. No.

25 Q. What is your understanding about what you're obligated to

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1 do under that agreement you signed with the United States
2 Attorney's Office?

3 A. Testify truthfully, provide truthful information for my
4 criminal fraudulent conduct and any others that I know of,
5 testify, also attend meetings and provide documentation if I'm
6 called upon.

7 Q. Are you allowed to commit any future crimes under that
8 agreement?

9 A. No, sir.

10 Q. Is your testimony today covered by that agreement?

11 A. Yes.

12 Q. What is your understanding of what the United States
13 Attorney's Office will do under that agreement if you live up
14 to the obligations that you just described?

15 A. Write a letter. It's called a 5K1 letter.

16 Q. And what's your understanding of what information would be
17 in this 5K1 letter?

18 A. All my bad criminal conduct and all the good conduct.

19 Q. And when you say good conduct, what do you mean by that?

20 A. Truthful testimony.

21 Q. And what if any sentence recommendation would be in this
22 5K1 letter?

23 A. Leniency.

24 Q. Now, would it recommend that you receive any specific
25 sentence?

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Georgiadis - direct

1 A. No, sir.

2 Q. What's the highest sentence you can get on these two
3 charges to which you pleaded guilty?

4 A. Twenty-five years.

5 Q. What's the minimum sentence you can get?

6 A. Probation.

7 Q. And what effect does the 5K1 letter have on the maximum
8 sentence, highest, or the minimum sentence?

9 A. None.

10 Q. If the government does write a letter on your behalf, what
11 could happen to your sentence?

12 A. Receive a lighter sentence.

13 Q. Who ultimately will decide your sentence?

14 A. The judge.

15 MR. SREBNICK: Objection, your Honor.

16 THE COURT: Overruled.

17 Q. Is the judge required to follow the government's
18 recommendation if the 5K1 letter is written?

19 A. No, sir.

20 MR. SHARGEL: I'm sorry, would the witness keep his
21 voice up, please.

22 A. No, sir.

23 Q. If you violate the agreement what could happen?

24 A. The agreement will be null and voided and it will be torn
25 up.

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1 Q. If that happens, will you receive the 5K1 letter?

2 A. No, sir.

3 Q. As you sit here today, has the government promised you
4 that, no matter what, it will write you a 5K1 letter?

5 A. No.

6 Q. Have you been promised you're going to get a lower sentence
7 as a result of your cooperation?

8 A. No, sir.

9 Q. Have any promises at all been made to you about your
10 sentence?

11 A. No.

12 Q. Now, do you believe that the outcome of this case has any
13 effect on whether or not you get a 5K1 letter?

14 A. No.

15 Q. What's your understanding of what does matter?

16 A. Telling the truth.

17 Q. Why did you agree to enter into this cooperation agreement
18 with the government?

19 MR. SHARGEL: Objection.

20 THE COURT: Overruled.

21 A. In hopes of getting a lighter sentence.

22 Q. Now, besides writing this 5K1 letter to the judge, what
23 other promises did the government make if you hold up your end
24 of the cooperation agreement?

25 A. None.

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1 Q. When did you enter into this cooperation agreement with the
2 government?

3 A. Last month.

4 Q. Had you been charged with any crimes prior to entering into
5 the cooperation agreement and pleading guilty?

6 A. No, sir.

7 Q. Were you a citizen at the time you entered into the
8 cooperation agreement with the United States?

9 A. Yes.

10 Q. When did you apply for citizenship?

11 A. May of 2012.

12 Q. And on what basis did you apply for U.S. citizenship?

13 A. My wife and my children are American citizens.

14 Q. There's a question on the citizenship application form that
15 asks have you committed any crime or offense for which you were
16 not arrested. What was your answer to that question?

17 A. No.

18 Q. And what's the reason you answered the question that way?

19 A. I hadn't been accused of committing a crime and I was
20 cooperating. I thought I was going to get a nonprosecution.
21 And it hadn't been until after I became an American citizen I
22 sat down with the government and my attorney and at that time I
23 was explained of my criminal conduct, that I hurt people and --

24 MR. SHARGEL: Judge, excuse me. I object to what
25 someone else told him.

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1 THE COURT: Sustained.

2 Q. Well, at that time what did you come to understand?

3 MR. SHARGEL: Objection, same objection.

4 THE COURT: Overruled.

5 MR. SHARGEL: Foundation.

6 THE COURT: Overruled.

7 Q. Without saying what anyone told you, what did you come to
8 understand?

9 A. I came to understand that what I have done was criminal and
10 I hurt people and at that time I wanted to accept
11 responsibility for what I'd done and I pled guilty.

12 Q. Now, when was the first time you met with the government?

13 A. June -- December of 2011.

14 Q. Were you fully honest with the government at that meeting?

15 A. No.

16 Q. And what happened right after the meeting?

17 A. I went home. The government ended the meeting and I drove
18 home and I was nervous and scared. I came to my house and I
19 told my dad that --

20 MR. SHARGEL: Objection what he told his dad.

21 THE COURT: Sustained.

22 Q. What happened after you got home, without saying any
23 conversations that you had?

24 A. I went home and my dad smacked me really hard in my face
25 and I was really scared and impatient and I wanted to call the

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1 agent but he was in flight. So I didn't sleep all night. I
2 woke up very early in the morning and I called Agent Richard
3 Reinhardt and I explained to him that I was wrong and I wanted
4 to cooperate and to give me 24 hours to seek new counsel.

5 Q. And is that what you did?

6 A. Yes.

7 Q. Now, before we get to Cardiac Networks, you were involved
8 in another stock scheme after Cardiac Networks, correct?

9 A. Yes.

10 Q. What was the name of the company?

11 A. Empire Film Group.

12 Q. What was the company looking for?

13 A. Company was looking for financing to distribute their film
14 and make another film.

15 Q. And how much money was the company looking for?

16 A. \$4 million.

17 Q. And how did you agree to raise the money?

18 A. By taking the company public and selling stock.

19 Q. And how did you -- how were you able to sell the stock?

20 A. Through stock promotion.

21 Q. And how much money were you able to raise through stock
22 promotion?

23 A. \$4 million.

24 Q. And how much money did you earn for yourself and others who
25 you worked with on top of the 4 million?

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1 A. 2 million.

2 THE COURT: We didn't hear that.

3 THE WITNESS: 2 million.

4 Q. What do you mean by stock promotion?

5 A. Hire somebody to do marketing on the company and the
6 company stock.

7 Q. And to your knowledge, was the government aware of your
8 role in Empire Film Group before you brought it to the
9 government's attention?

10 A. No.

11 Q. Now let's get to how you came to be involved in the Cardiac
12 Network scheme.

13 When did you begin investing in penny stocks?

14 A. Sometime in around 2003.

15 Q. How successful was your first investment?

16 A. Real successful.

17 Q. How much money did you make?

18 A. Around \$400,000.

19 Q. What did you do with the money?

20 A. I reinvented it.

21 Q. And how did you decide what -- what did you reinvest it in?

22 A. I reinvested in penny stocks.

23 Q. How did you decide what penny stocks to invest in?

24 A. I would go on certain chat rooms and read about what others
25 were buying and it was like a community where you could see

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1 what everybody else was buying, what was hot at the time in
2 different types of sectors.

3 Q. And what contacts did you make with investor relations
4 firms at that time?

5 A. Made a contact through an investment relations firm called
6 Equitalink with a gentleman who was doing investor relations
7 for companies, public companies.

8 Q. What business were you in at the time?

9 A. I was working at the pizzeria.

10 Q. And what pizzeria was that?

11 A. DeGreko's Pizzeria.

12 Q. Whose business was that?

13 A. My family's.

14 Q. What did you do for the family business?

15 A. Did anything from cook, clean, mop, answer phones.

16 Q. And when you contacted these investors relation firms, what
17 kind of information were you looking for?

18 A. Information about the various companies or information
19 regarding certain products the companies had, anything to get
20 any kind of knowledge of investment opportunities.

21 Q. Now, did there come a time when you decided to use the
22 information you were learning to take the family business
23 public?

24 A. Yes.

25 Q. And what's the reason that you decided to do that?

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1 A. To expand my business into supermarket stores for frozen
2 pizzas and hoping to open up multiple stores.

3 Q. And how much money did you think that you needed to do
4 that?

5 A. Around a million dollars.

6 Q. And approximately when was this?

7 A. Around 2005.

8 Q. And how did you learn about the steps you needed to take to
9 bring the company public?

10 A. There was a website called PinkSheets.com.

11 Q. And who did you end up finding on PinkSheets.com?

12 A. I found a lawyer by the name of Laura Anthony.

13 Q. What was your understanding of her role in taking companies
14 public?

15 A. She helped take companies public via reverse merger and
16 helped find financing.

17 Q. And who did she introduce you to?

18 A. Her husband, Michael Anthony.

19 Q. And how did he describe his role in taking companies
20 public?

21 A. His role was that he would merge the companies into a
22 public shell and help raise capital.

23 Q. And when you spoke with him, what was the business
24 proposition that he offered you?

25 A. To raise me a million dollars; 50 percent of the proceeds

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1 were to go to the company and 50 percent were to go to him.

2 Q. And how did he say he was going to raise the money?

3 A. By selling free trading stock.

4 Q. And what kind of shares were you going to get as part of
5 the deal?

6 A. Restricted.

7 Q. And what did he say you would need to do in order to enable
8 him to sell the stock?

9 A. I was supposed to put out press releases of anything the
10 company had going on at the time.

11 Q. And what else did Michael tell you you needed to do in
12 order to help with the money raise?

13 A. Seek stock promotion.

14 Q. And what if any experience did you have with taking a
15 company public before?

16 A. I didn't.

17 Q. And what if any experience did you have with stock
18 promotion before?

19 A. Not too much.

20 Q. And what were you hoping to get out of the deal?

21 A. A million dollars to expand my business.

22 Q. And who -- did you end up going through with the deal?

23 A. No.

24 Q. Did you end up taking your company public?

25 A. Yes, yes.

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1 Q. Now, I mentioned a couple -- you mentioned a couple terms
2 just a minute ago.

3 What do you mean by restricted shares?

4 A. Shares that you cannot sell, insider shares.

5 Q. And what do you mean by free trading shares?

6 A. Free trading shares that you can sell.

7 Q. And so you ended up -- did you end up accepting Michael
8 Anthony's offer?

9 A. Yes.

10 Q. And who did you hire to draft press releases?

11 A. I hired a company by the name of Agoracom.

12 Q. And how did you find Agoracom?

13 A. I found them online through research.

14 Q. And why did you pick them?

15 A. I found them online through research. I called them up,
16 spoke to them on the phone. Gentleman that owned it was Greek
17 and he was a lawyer so I figured that, you know, it was a good
18 company.

19 Q. And how did you disseminate press releases?

20 A. Agoracom would help me draft up press releases. I would
21 then send them over to my attorney for approval and then send
22 them to a company called MacReport media. It's like business
23 wire where you send the press release to get disseminated.

24 Q. Now, would you give Michael advance notice of the releases
25 before they were going out?

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1 A. Yes.

2 Q. And what was the purpose of that, what did you understand
3 the purpose of that to be?

4 A. For him to sell stock.

5 Q. Did there come a time when you hired a stock promotor as
6 Michael had asked to you do?

7 A. Yes.

8 Q. What was the name of the person you hired for stock
9 promotion?

10 A. Eddie.

11 Q. And did Eddie say he could do to help you with the
12 promotion?

13 A. He told me that he could help me by promoting through
14 various email lists.

15 Q. And what did he say -- what did he say he could achieve
16 through sending out information in email lists?

17 A. By bringing prospective buyers to buying the stock.

18 Q. And when if ever did he use the term liquidity?

19 A. He had told me that by using the email list it would bring
20 liquidity into the stock and basically buying into the stock.

21 Q. And how much did you pay Eddie for his promotion services?

22 A. Paid him 150,000 worth of stock.

23 Q. What kind of stock?

24 A. Free trading stock.

25 Q. Now, did there come a time when you began issuing press

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1 releases and using Eddie to promote the stock as Michael had
2 requested?

3 A. Yes.

4 Q. Approximately when did this happen?

5 A. Sometime in 2006.

6 Q. And what did you see happen to the stock after you started
7 sending out press releases and using this promotion?

8 A. Volume came into the stock buying and the price went up.

9 Q. Now, over the course of early 2006, did you give stock to
10 others as well to help with promotion?

11 A. Yes.

12 Q. And what's the reason you started using other promoters as
13 well?

14 A. Well, because, you know, I was getting some complaints on
15 some of the emails that were going out.

16 Q. And as 2006 progressed, how well was the frozen pizza idea
17 working out?

18 A. Not too good.

19 Q. And what's the reason for that?

20 A. I ended up stopping the money raise through Michael
21 Anthony.

22 Q. And why did you stop the money raise?

23 A. The stock was going down and I didn't want to hurt the
24 stock so I decided to just stop the money raise with him.

25 Q. And before you stopped the money raise, did there come a

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1 time when you explored, when you tried to move DeGreko into a
2 different line of business?

3 A. Yes.

4 Q. What line of business was that?

5 A. It was a technology called click to call.

6 Q. And what did -- what steps did you actually take to develop
7 this click to call technology?

8 A. I hired some people to develop this click to call
9 technology where it was a box that appeared on a website where
10 you would enter your cell phone number if you had a question
11 about a specific product and the number that you entered into
12 the box, your phone would ring within 30 seconds with a
13 representative being able to help you with any questions that
14 you had.

15 Q. And how well did that idea work out?

16 A. Well, we developed it, but we didn't have enough money to
17 market it.

18 Q. And how much money in total did you get from Michael
19 Anthony as a result of your promotion and press release work?

20 A. Roughly around \$250,000.

21 Q. And what if any stock were you able to sell?

22 A. None.

23 Q. And what's the reason for that?

24 A. My shares were restricted.

25 Q. Now, did there come a time when Michael Anthony asked you

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1 to work as a stock promotor?

2 A. Yes.

3 Q. And what stock did that involve?

4 A. A company called ikarma.

5 Q. What role did Michael Anthony have in that deal?

6 A. He took the company public and was helping them with
7 financing.

8 Q. And how much stock did Michael Anthony give you to pay for
9 the promotion?

10 A. Around \$250,000 worth of stock.

11 Q. Who did you hire to help with the promotion?

12 A. I hired Eddie.

13 Q. Did you maintain any email lists yourself?

14 A. No.

15 Q. Did you draft any promotional materials yourself?

16 A. No.

17 Q. Did you disseminate any promotional materials yourself?

18 A. No.

19 Q. Why did you hire Eddie to help with the stock promotion
20 related to ikarma?

21 A. He was effective.

22 Q. Effective where?

23 A. He was an effective promotor.

24 Q. And how did you know he was an effective promotor?

25 A. Because he had brought in liquidity when I hired him on my

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1 company and the stock actually went up.

2 Q. And was Eddie the only stock promotor you hired for ikarma?

3 A. No.

4 Q. Now, how successful was the promotion for ikarma?

5 A. It was successful.

6 Q. And what if any concerns did you start hearing about the
7 promotion?

8 A. I was getting complaints on emails that were going out,
9 people not wanting to receive certain emails.

10 Q. And what's -- what did you hear those unwanted emails
11 referred to?

12 A. They were called spam.

13 Q. And what did you do when you learned that there was
14 spamming going on with the ikarma promotion?

15 A. I called and I asked the promoters that I hired and talked
16 to them about it and they denied it. So, I stopped the
17 promotion.

18 Q. And did there come a time -- well, where did Eddie live?

19 A. Lived in Florida.

20 Q. And did there come a time when Eddie asked you to fly down
21 to Florida to meet with him?

22 A. Yes.

23 Q. And what was your understanding of the purpose of that
24 meeting?

25 A. I was going down to Florida to speak to Eddie about

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1 financing for my click to call technology.

2 Q. And approximately when was that?

3 A. Around 2007, 2006.

4 Q. And what did you do when Eddie invited you down to talk
5 about financing?

6 A. I flew down to Florida.

7 Q. And what happened when you got down there?

8 A. I flew down and -- I flew down to Florida. We had lunch
9 and we were discussing finance opportunities. He told me he
10 was going to introduce me to some financiers. Shortly after
11 when we finished our conversation, I was going to fly out the
12 next morning and he invited me to go out to dinner that night
13 and asked me if I wanted to attend. He was having some friends
14 that were going to join him.

15 Q. And did you agree to join him for dinner?

16 A. Yes.

17 Q. And where did you meet?

18 A. Met at a steak house somewhere in Fort Lauderdale.

19 Q. And who else was at the dinner other than you and Eddie?

20 A. Eddie's wife, David Levy, and Donna Levy.

21 Q. And had you ever meet David Levy or Donna Levy before?

22 A. No.

23 Q. And what happened at the dinner?

24 A. It was small talk. Everybody, you know, I introduced
25 myself, talked about my company a little bit. David was

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1 talking about a company he had called The Tube that was
2 successful.

3 Q. And what did Donna talk about?

4 A. Donna was talking about a stock promotion that she was
5 upset about that was not going her way.

6 Q. And did there come a time during that dinner when you had a
7 private conversation with David Levy?

8 A. Yes.

9 Q. And describe that conversation.

10 A. Eddie had excused himself to go to the bathroom and David
11 came up to me and gave me his business card and told me that if
12 I ever need any help for marketing and promotion that Donna
13 does promotion.

14 Q. And did there come a time when you actually made that call
15 to David Levy about promotion?

16 A. Yes.

17 Q. And what's the reason why you made that call?

18 A. I had potential stock promotion deal.

19 Q. And why didn't you continue using Eddie?

20 A. Because I was receiving complaints from before about the
21 emails that were going out, so decided not to use him anymore.

22 Q. And what happened when you called David Levy?

23 A. Called David Levy and asked him if I could have Donna's
24 contact information and he gave them to me.

25 Q. And what did you do when you got Donna's contact

D3BLLEV1

Georgiadis - direct

1 information?

2 A. I called her.

3 Q. And what did you tell her about the opportunity and what
4 did she say to you?

5 A. She told me to fly down to Florida to have a face-to-face
6 conversation.

7 Q. Where were you living at the time?

8 A. In Connecticut.

9 Q. And what did you decide to do?

10 A. To get on a flight and go to Florida.

11 Q. And where did you meet initially?

12 A. Met at the hotel that I was staying at.

13 Q. And after you met at the hotel, where did you go?

14 A. We went back to Donna's house.

15 Q. And describe the house.

16 A. Mediterranean style home on the Intercoastal.

17 Q. And what if any cars did you see in the driveway?

18 A. A Cadillac Escalade and a Porsche.

19 Q. And what effect did the cars and the surroundings have on
20 you?

21 A. It was wealthy.

22 Q. Describe the conversation you had with her at her house
23 about the promotion.

24 A. We talked about the promotion. She told me how she worked.
25 Sometimes she would take stock and sometimes she would take

D3BLLEV1

Georgiadis - direct

1 cash, depending on the deal.

2 Q. What did she say about the budget requirement?

3 A. Had to be a minimum budget of a hundred thousand dollars.

4 Q. What did she describe as her fee for promotions?

5 A. Fee was based on the total value of shares that went
6 through the specific stock for the day and the average price of
7 the stock for the day.

8 Q. What was that fee?

9 A. Excuse me?

10 Q. You said it was based on that. What percentage of that?

11 A. 10 percent.

12 Q. What if any examples did she give about her past successes
13 at that meeting?

14 A. She gave me examples of other stock promotions that she was
15 doing that were successful.

16 Q. And what if any other expenses about did she say she needed
17 to cover?

18 A. If she hired anybody else in regards to the stock
19 promotion.

20 Q. And, again, approximately when did this conversation occur?

21 A. Sometime in 2006.

22 Q. And what if any research did she say she did on a stock
23 before deciding whether or not she would take the offer to
24 promote it?

25 A. Research that was out there and disseminated already, press

D3BLLEV1

Georgiadis - direct

1 releases or anything she could find out about the company.

2 Q. What if anything did she say she wanted to know about the
3 float on the stock?

4 A. She wanted to know about the float and how many shares were
5 in the public float.

6 Q. What is your understanding of the term float means?

7 A. Float is how many shares are in the public's hands that are
8 free trading.

9 Q. And what kind of numbers did she say she was looking for in
10 terms of the float?

11 A. The lower the better.

12 Q. And why did she say was looking for a lower number?

13 A. It would make the stock react better.

14 Q. And what did she mean by react, what did you understand?

15 A. It would make the stock go up fast.

16 Q. Turning next to the press releases, what kind of story did
17 she say she was looking for?

18 A. Anything going on with current events, hot topics, hot
19 sector, whether it's tech or biotech.

20 Q. And what if anything did she say she looked for concerning
21 any past history of promotions?

22 A. She would look for to see if the company had any past
23 promotions done to it.

24 Q. And did she say why she looked for that?

25 A. Because that would mean that the stock would be diluted,

D3BLLEV1

Georgiadis - direct

1 had been diluted.

2 Q. What did you understand the term diluted to mean?

3 A. Too many shares that were sold.

4 Q. And what --

5 A. Prior.

6 Q. And what did you understand that that -- what did you
7 understand that would mean in terms of the effectiveness of the
8 promotion?

9 A. That the promotion wouldn't be as successful.

10 Q. Now, did you end up working with her on promotion deals?

11 A. Yes.

12 Q. How many deals do you remember doing with her?

13 A. Five.

14 Q. And during which two years did you do these deals?

15 A. 2006 and 2007.

16 Q. And how many promotion deals do you remember doing with
17 her?

18 A. Five.

19 Q. What companies were the subject of the deals?

20 A. Material Technologies, Pizza International, Sao Luis
21 Mining, Mobile Ready, and Fire Sky Media.

22 Q. And who brought each of these five deals to Donna?

23 A. I did.

24 Q. And who hired you?

25 A. Other company consultants or other stock promoters.

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Georgiadis - direct

1 Q. And what were you told was the purpose of each promotion?

2 A. The companies would either be seeking financing or would
3 need attention on the company and their specific product that
4 they had.

5 Q. Do you know if those representations were accurate?

6 A. No, I don't.

7 Q. To your knowledge, were you Donna's only customer?

8 A. No.

9 Q. And how were you paid for each of the deals?

10 A. Stock.

11 Q. Back to the last question, how do you know that you weren't
12 Donna's only customer?

13 A. She had said that she used to use other people and work
14 with other people.

15 Q. Now, what kind of stock were you paid with?

16 A. Free trading stock.

17 Q. And over time, what did Donna ask you to do with free
18 trading stock that you were receiving?

19 A. To trade it myself.

20 Q. And why did Donna -- what did Donna say was the reason why
21 she wanted you to trade stock?

22 A. That it would be better because we wouldn't be pointing
23 fingers at each other of who sold first and at what price each
24 of us had sold at.

25 Q. And under this arrangement, who was going to provide the

D3BLLEV1

Georgiadis - direct

1 direction for what to trade and when?

2 A. She would provide me direction via instant message.

3 Q. And how did she say she would know what to trade and when?

4 A. She would monitor the stock with a system that's called a
5 level two system.

6 Q. And what's your understanding of a level two system?

7 A. It's a stock system where you can see the bid and ask and
8 see the multiple offers that are under current market.

9 Q. And what was your reaction to this proposal?

10 A. I agreed.

11 Q. And after you agreed to the deal, how did you actually go
12 about deciding what to trade and when?

13 A. She would tell me, you know, to put in an offer or to take
14 the bid out certain times of when the promotion was going on.

15 Q. And for how long did her campaigns last, promotional
16 campaigns last for each of these deals?

17 A. Sometimes they would last a couple days, sometimes one day.

18 Q. And what happened to the stock each time she did these
19 campaigns?

20 A. Stock would go up.

21 Q. And what would you do with the stock, the free trading
22 shares you'd gotten once her campaign was underway?

23 A. I would sell it.

24 Q. And what did she tell you she would do for her promotional
25 campaign -- withdrawn.

D3BLLEV1

Georgiadis - direct

1 And so you would sell stock. What kind of offer did
2 she have you put into the market before she began the
3 promotional campaign?

4 A. Over the price of what the offer was at.

5 Q. And what did she say the purpose of that was?

6 A. It was a gap up.

7 Q. And what did you understand the term gap up to mean?

8 A. It would mean that there was interest premarket before the
9 stock would open up and it would create the stock to go higher.

10 Q. And was your understanding that your offer would appear on
11 this level two system?

12 A. Yes.

13 Q. And what was your understanding of the effect of seeing a
14 higher offer on the level two system would have on the market?

15 A. Make people buy the stock more.

16 Q. And what would you do if your initial offer was accepted?

17 A. I would move up a couple ticks.

18 Q. What do you mean by ticks?

19 A. I would move up 2 cents or 5 cents.

20 Q. And how frequently did Donna use the term gap up?

21 A. She would use it all the time.

22 Q. And, again, what, in the context of trading, trading these
23 penny stocks, what do you understand the term gap up to mean?

24 A. Term gap up would mean is that the stock is gapping higher
25 than the current market price at the time.

D3BLLEV1

Georgiadis - direct

1 Q. So you used the term gap in the definition of gap up.

2 What do you mean by the term, I guess what do you
3 understand the difference between the current market price and
4 the offer to be?

5 A. The current market price and the offer?

6 Q. Well, just explain again.

7 A. The current market price would be 50 cents, let's say, and
8 a gap up would be around 60.

9 Q. And what would the number 60 represent?

10 A. The number 60?

11 Q. Yeah, in this example that you're giving.

12 A. It would represent, it would represent the price that I
13 would put the stock to be sold at.

14 Q. So the gap would be 10 cents?

15 A. The gap would be 10 cents, yes.

16 Q. And that would be the difference between your offer and the
17 current market price?

18 A. Yes.

19 (Continued on next page)

20

21

22

23

24

25

D3brlev2

Georgiadis - direct

1 Q. How much money did you make altogether in these five deals?

2 A. Several hundred thousand dollars.

3 Q. How were the proceeds split?

4 A. We paid for marketing costs, and after that we split it
5 50-50.

6 Q. How did you end up sending her share of the proceeds to
7 her?

8 A. By check or wire.

9 Q. To what entity?

10 A. DML Marketing.

11 Q. Who did you understand was the owner of that entity?

12 A. Donna.

13 Q. I'd like you to take a look at some records that are on the
14 table next to you. They are from Government Exhibits 1257 and
15 1230, 1257 being Spartan Securities Group, Bedrock Ventures,
16 Henson Bedrock Ventures, and 1230 being Bedrock Ventures
17 Wachovia account?

18 A. Yes.

19 Q. First of all, what is Bedrock Ventures?

20 A. Bedrock Ventures was a marketing and investment company of
21 mine.

22 Q. Who owned it?

23 A. I did, I owned it.

24 Q. Who helped you form it?

25 A. My attorney.

D3brlev2

Georgiadis - direct

1 Q. Which attorney was that?

2 A. Laura Anthony.

3 Q. I'd like you to take a look at what is in front of you as
4 the Bedrock Ventures trading account February 1, 2007, and
5 February 28, 2007. Do you see that, the first document?

6 THE COURT: What number is that, Mr. Master?

7 MR. MASTER: It's from Government Exhibit 1257. It is
8 already admitted into evidence. Your Honor, we are handing up
9 a copy. We are going to put this on the screen your Honor, if
10 you wish, we can mark this for identification as 1257A. It is
11 within 1257, which is a multihundred-page exhibit, 1C.

12 Q. In any event, Mr. Georgiadis, can you see that on the
13 screen?

14 A. Yes.

15 Q. What document is in front of you? Can you describe this
16 document?

17 A. This is my stock brokerage statement.

18 Q. For which month?

19 A. For February.

20 Q. Of what year?

21 A. 2007.

22 Q. Did you trade Sao Luis Mining, one of the stocks that you
23 promoted with Donna that month?

24 A. Yes.

25 Q. I'd like you to turn to the fourth page of that document.

D3brlev2

Georgiadis - direct

1 Do you see what is listed on February 13th and February 14th,
2 2007?

3 A. Yes.

4 Q. What is reflected on this document?

5 A. Selling of Sao Luis Mining.

6 Q. Does it reflect the proceeds from that sale?

7 A. Yes.

8 Q. Approximately how much money did you make from that sale?

9 A. 164,220.64.

10 Q. Was there a subsequent sale when you made additional money?

11 A. Yes.

12 Q. I'd like you to take a look at the next page. If you look
13 on the top of that page, there is something called a wire
14 transfer. Do you see that?

15 A. Yes.

16 Q. Where did you transfer that money to after you earned it
17 from stock sales?

18 A. To my Wachovia account.

19 Q. Now I would like you to take a look at a subset of
20 Government Exhibit 1230. We'll mark it 1230A for
21 identification. Do you see on February 20, 2007, what is
22 reflected in this Wachovia statement? Is that the wire
23 transfer?

24 A. Yes.

25 Q. That is the other side of the wire transfer?

D3brlev2

Georgiadis - direct

1 A. Yes.

2 Q. What did you do the next day?

3 A. I wired Donna the money.

4 Q. Take a look at the second page of that document. If you
5 could tell the jury where the payment to Donna is reflected.

6 A. Right at the 200,000 funds transfer to Colonial Bank DML
7 Marketing.

8 Q. That's on February 21st?

9 A. Yes.

10 Q. The description is marketing contract A1B1. What did that
11 refer to?

12 A. The marketing of Sao Luis Mining.

13 Q. I'd like you to take a look at another set of trades and
14 transfers in May of 2007. Is this a page from your May 2007
15 Bedrock Ventures trading account?

16 A. Yes.

17 Q. Does this reflect trades in Firesky Media?

18 A. Yes.

19 Q. Is that one of the companies that you just described as
20 doing promotions with Donna?

21 A. Yes.

22 Q. What were the proceeds from that transaction?

23 A. \$122,797 and one penny.

24 Q. The day before you had made a trade in that stock?

25 A. That's what?

D3brlev2

Georgiadis - direct

1 Q. The day before there is also some proceeds, correct?

2 A. Yes.

3 Q. Then I would like you to take a look at a page from your
4 June 2007 statement. This as subset of June 2007 statement.
5 I'd like you to take a look at on June 4, 2007, something that
6 says "wire transfer." Do you see that?

7 A. Where?

8 Q. June 4, 2007, it says, "cash, journal, wire transfer."

9 A. Yes.

10 Q. How much did you wire transfer out?

11 A. \$122,772 and one penny.

12 Q. That is essentially all the proceeds from your sale of
13 Firesky Media?

14 A. Yes.

15 Q. Where did you wire that money to?

16 A. My Wachovia account.

17 Q. Now I'd like you to take a look at your June 2007 Wachovia
18 statement. This is a subset of Government Exhibit 1230, 1230A
19 for identification. Is that wire transfer in from your trading
20 account reflected on page 1 of this document?

21 A. Yes.

22 Q. Where is that reflected?

23 A. What do you mean?

24 Q. If you could explain to the jury where on this statement,
25 for the record.

D3brlev2

Georgiadis - direct

1 A. June 4th, \$122,772 and one penny.

2 Q. What did you do the day after you received that money?

3 A. I wired money to Donna.

4 Q. Is that reflected on page 2 of that document?

5 A. Yes.

6 Q. Explain to the record where that payment is reflected.

7 A. On June 5th, I wired \$70,600 to DML Marketing at Colonial
8 Bank.

9 Q. It says in the memo line "invoice for May." What did you
10 refer to when you said "invoice for May"?

11 A. For the sale of Firesky Media.

12 Q. What did the \$70,800 represent?

13 A. Her proceeds.

14 Q. Her share of the proceeds?

15 A. Her share of the proceeds, yes.

16 Q. You said sometimes you sent payments to Donna by check?

17 A. Yes.

18 Q. I'm going to show you two checks that are again from
19 Government Exhibit 1230 marked for identification as Government
20 Exhibit 1230B. Those are drawn from the same account, the
21 Bedrock Ventures Wachovia account?

22 A. Yes.

23 Q. Who are they made out to?

24 A. DML Marketing.

25 Q. What do those payments represent?

D3brlev2

Georgiadis - direct

1 A. Other stock promotions, her proceeds and marketing costs.

2 Q. Again it says on the memo line of the check -- this check,
3 which is dated March 30, 2007, and it's in the amount of
4 \$165,959.50, states, "remaining Jan invoice and last half
5 March." What did you refer to when you were referencing
6 invoices?

7 A. It was the deals that we had done for January and for
8 March.

9 Q. Why didn't you explicitly mention the names of the stocks
10 that you were promoting on these invoices, or on these memos?

11 A. I just didn't.

12 Q. Flip to the second page. That is another check from
13 Government Exhibit 1230. Is that from the same account?

14 A. Yes.

15 Q. It's to DML Marketing as well?

16 A. Yes.

17 Q. That's dated May 2, 2007, in the amount of \$58,000, and
18 that states "April invoice." What did you refer to when you
19 stated "April invoice"?

20 A. The stock promotion that we had involvement in in April.

21 Q. As you began working more with her over time, did there
22 come a time when she began disclosing more to you about her
23 methods for making the stock price and volume move?

24 A. Say that again.

25 Q. As you began working more with her, did there come a time

D3brlev2

Georgiadis - direct

1 when she disclosed to you some of her methods for making a
2 stock price and the volume increase?

3 A. Yes.

4 Q. What did she say about how she used message boards to help
5 make the stock price and volume move?

6 A. She would use some people that would go out and post on
7 specific -- on certain message boards about the stock
8 promotion.

9 Q. What kind of information would they post? What would be
10 the content of those posts?

11 A. To get into the stock before the promotion starts,
12 basically.

13 Q. What did she say was the main message board that she used
14 to draw people into purchasing the stock?

15 A. There was a message board named Investors Hub, iHub.com.

16 Q. What is a message board?

17 A. A message board is a community where you go and seek
18 information about specific stocks and companies.

19 Q. What, if anything, did she say she did with people who had
20 their own stock purchase recommendation mailing list?

21 A. She would give them the stock promotion that she was
22 involved in, we were involved in, and they would promote it for
23 free.

24 Q. What did she say was the purpose of leaking this --
25 withdrawn. Where did she say she would give this information

D3brlev2

Georgiadis - direct

1 out to these individuals?

2 A. Before her promotion began.

3 Q. What did she say was the purpose of giving them advance
4 notice of the promotion?

5 A. Building a chart, basically.

6 Q. What did you understand her to mean by building a chart?

7 A. To have activity going on in the stock before the promotion
8 was to go out on the basis of when someone received the
9 promotion and would check on the stock, he would see that there
10 was activity prior to the promotion.

11 Q. Who would actually be creating that activity? Would it be
12 regular investors or would it be someone else?

13 A. It would be other people.

14 Q. Other people?

15 A. It would be people that she would either leak it out to
16 that she worked with or friends, and so forth.

17 Q. What did she say was the reason that people would go out or
18 would distribute these stock purchase recommendations
19 concerning the stocks you and she were promoting together for
20 free?

21 A. Because they knew that Donna was a successful stock
22 promoter and she was effective, so they would have a gain to do
23 it because it would make them look good as well.

24 Q. What did she say, if anything, about the use of people to
25 buy stock in advance of the start of her promotion?

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Georgiadis - direct

1 A. Say that again. I didn't hear you.

2 Q. What, if anything, did she say about the use of people to
3 buy stock that you were going to promote in advance of the
4 start of her promotion?

5 A. She would use people to prebuy stock before the promotion
6 would go out.

7 Q. What does prebuy mean?

8 A. Prebuy is where you leak the information of the promotion
9 out before the promotion goes out so you could show a
10 consistent pattern of buying.

11 Q. Show the consistent pattern of buying to whom?

12 A. What's that?

13 Q. Show the consistent pattern of buying to whom?

14 A. To potential investors that would be buying the stock.

15 Q. How would these potential investors learn about the stock
16 in the first place?

17 A. Basically, via email.

18 Q. Who, if anyone, did she say she worked with to send out
19 emails?

20 A. She worked with others. One in general was a company
21 called I believe Winning Media.

22 Q. What was the goal of showing a pattern of buying stock
23 before a promotion began?

24 A. To show a pattern that there's activity in the stock to
25 entice. Usually, to do a promotion, most of the time there's

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Georgiadis - direct

1 no activity in the stock. So you would bring in buyers before
2 the promotion was to start so that when you received the
3 promotion, you would check the activity and it would entice you
4 to buy the stock.

5 Q. Again, what did she say the intended effect would be of all
6 of these techniques that she used?

7 A. Successful promotion.

8 Q. What did you understand her to mean by success?

9 A. Be able to make the stock go up.

10 Q. Did there come a time when David Levy approached you with
11 an offer related to a company called Cardiac Networks?

12 A. Yes.

13 Q. Approximately when?

14 A. Sometime in 2010.

15 Q. How early that year?

16 A. Mid '07.

17 Q. How would he describe the offer initially?

18 A. He described the offer as a really good opportunity in the
19 heart monitoring business and the founders were very
20 successful. One of the founders had worked for Life Watch, and
21 there was a prominent doctor that was involved in the deal, and
22 he said that it was going to be the next best thing.

23 Q. What was he looking for you to do?

24 A. To help him finance the company.

25 Q. How much did he say he wanted you to invest?

D3brlev2

Georgiadis - direct

1 A. Total money that the company was looking for at that time
2 was roughly around 3 to \$500,000.

3 Q. Did there come a time when the amount of money that the
4 company was seeking became greater?

5 A. Yes.

6 Q. Ultimately, how much money did the company need?

7 A. Roughly around 1.2 million.

8 Q. Had you ever done any business with David Levy before?

9 A. No.

10 Q. Did there come a time when you wet with the principals of
11 the company?

12 A. Yes.

13 Q. Where did you meet?

14 A. We met in Florida.

15 Q. Who was at that meeting, that initial meeting?

16 A. It was me, David Levy, Zev Helfer, and Eric Buchwald.

17 Q. What did you discuss with them at that meeting?

18 A. We discussed about the financing of the company, structure,
19 taking the company public, the business plan of the company,
20 and so forth.

21 Q. After the meeting, where did you go?

22 A. Went back to David and Donna's house.

23 Q. Did Zev Helfer or Eric Buchwald come with you?

24 A. No.

25 Q. Who was at the meeting at the house?

D3brlev2

Georgiadis - direct

1 A. Me, David, and Donna.

2 Q. During the discussion at the house, what did David say
3 about the structure of the deal he was considering for Cardiac
4 Networks?

5 A. He was considering the deal was going to be a 60-40 split,
6 60 percent for the insiders and 20 percent for my side and 20
7 percent for his side.

8 Q. What kind of stock was David intending insiders to get?

9 A. Restricted.

10 Q. What kind of stock did David say that you and he would get?

11 A. Free-trading.

12 Q. Did you discuss who would promote the stock?

13 A. Yes.

14 Q. Who did you decide would promote the stock?

15 A. Donna Levy.

16 Q. What did David say attracted him most about the deal?

17 A. The deal, basically the company was a sexy story, the heart
18 monitoring business was big for baby-boomers, and he thought
19 that it was going to be great.

20 Q. What about the stock that you were going to receive? What
21 attracted him about the stock?

22 A. We were receiving all free-trading shares. He said there
23 was paper there to last for years.

24 Q. As you discussed the deal, what did David Levy say had to
25 be done with your 20 percent and his 20 percent take in the

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Georgiadis - direct

1 company?

2 A. It had to be broken up to people that we felt that we
3 trusted.

4 Q. What did you understand the term "enough paper to last for
5 years" to mean?

6 A. There was a lot of free-trading stock.

7 Q. What did you understand to be meant when you referenced
8 enough free-trading stock to last for years?

9 A. Meaning you could sell it in that time period.

10 Q. When you refer to insiders, that the insiders would get 60
11 percent, who did you understand the insiders to be at that
12 time?

13 A. Dr. Gang, Zev Helfer, Eric Buchwald. That's all I
14 remember.

15 Q. Getting back to the issue of breaking up the shares, how
16 many people did you say you need to distribute the shares to?

17 A. As many as we wanted.

18 Q. What did he say was the reason that you needed to put stock
19 in the name of people that you trusted?

20 A. That we trusted, right.

21 Q. Did he explain why you needed to put stock in the name of
22 people you trusted?

23 A. To fall under the 5 or 10 percent rule.

24 Q. What was your understanding of the 5 or 10 percent rule?

25 A. My understanding was that if you were over 10 percent of a

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Georgiadis - direct

1 holder of a stock, you're considered an insider.

2 Q. What would happen if you're an insider?

3 A. You wouldn't be able to sell.

4 Q. What about the 5 percent rule?

5 A. The same.

6 Q. Your understanding is there would also be restrictions on
7 your ability to sell?

8 A. Yes.

9 Q. Who did David say he was using as the names of the people
10 who would be holding the stock?

11 A. I believe one was his dentist, a family member, and another
12 friend. I don't know who the other one was.

13 Q. At that meeting how did you, David, and Donna decide how to
14 raise the money that the company was seeking?

15 A. We were going to raise it by selling stock.

16 Q. Where was the initial investment going to come from?

17 A. It came from me.

18 Q. What was your reaction to the deal?

19 A. I liked the deal. I accepted.

20 Q. After you accepted, from whom did you acquire the shell and
21 the free-trading shares of this shell company?

22 A. From Michael Anthony.

23 Q. How did you split the costs of acquiring the shell and the
24 free-trading shares in the shell between yourself and David?

25 A. David bought the shell and I bought the free-trading stock.

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Georgiadis - direct

1 Q. How much did that cost each of you?

2 A. 75,000 each.

3 Q. Did there come a time when you signed a term sheet
4 memorializing the outlines of the deal?

5 A. Yes.

6 MR. MASTER: I'm going to publish what is already in
7 evidence as Government Exhibit 201-38.

8 Q. If you could look at the screen, and here is a copy. Do
9 you recognize that document?

10 A. Yes.

11 Q. What is that document?

12 A. That document is the term sheet that we agreed upon with
13 Cardiac Network.

14 Q. Could you look at the second page, the signature on the
15 second page. I'm sorry. The third page.

16 A. Yes, that is my signature.

17 Q. Who else's signature is on that?

18 A. Zev Helfer.

19 Q. Following the term sheet, did there come a time when you
20 actually acquired the shell and broke up the shares as David
21 recommended?

22 A. Yes.

23 Q. What was the name of the shell?

24 A. Caspian Energy.

25 MR. MASTER: I'd like to publish what is already in

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1 evidence as Government Exhibit 250-1.

2 THE COURT: OK.

3 Q. If you could take a look at 250-1.

4 A. Yes.

5 Q. Would you please explain to the jury who created that
6 document.

7 A. I did.

8 Q. Could you explain to the jury how you came to create this
9 document and to whom did you send it.

10 A. I sent it to the transfer agent.

11 Q. For what company?

12 A. For Caspian Energy.

13 Q. This is prior to the actual reverse merger, correct?

14 A. Yes.

15 Q. How did you come to create it?

16 A. These are the names that I provided and David provided.

17 Q. What was the purpose of your creating this document?

18 A. What was the purpose of what?

19 Q. Why did you create the document?

20 A. I'm sorry. I didn't hear you.

21 Q. Why did you create it?

22 A. It was to issue the stock in these various names.

23 Q. Again, why were you breaking it up into various names?

24 A. To not fall under the 5 or 10 percent rule.

25 Q. If you could go through this list and say whose names came

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Georgiadis - direct

1 from you and whose names came from David.

2 A. Bedrock, Athanasios Georgiadis, Athanasios Georgiadis II,
3 Eftibia Georgiadis, Arkas Capital came from me. Date Palm,
4 David Newren, Moti Landau, Kodel Investment, and David Champion
5 came from David.

6 Q. Have you ever met David Champion?

7 A. I met him one time, yes. No, no, I'm sorry. I met David
8 Newren one time.

9 Q. But you never met David Champion?

10 A. No.

11 Q. What kind of shares were issued in the names of those
12 people?

13 A. Free-trading shares.

14 Q. Then it states, "Issue 2 certificates restricted shares in
15 the following names." Those two names below are Zev Helfer and
16 John Fisher. Who are those individuals?

17 A. Zev was the CEO of the company, and John Fisher I believe
18 was a board member.

19 Q. What kind of stock did they get? There is a stamp right
20 next to it.

21 A. They got restricted shares.

22 Q. After you broke up the shares in this way, did there come a
23 time when you actually closed the deal?

24 A. Yes.

25 Q. At the time you closed the deal, who supplied the balance

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1 of the -- well, what was the structure of the deal, first of
2 all?

3 A. The structure of the shares?

4 Q. The structure of the financing.

5 A. The company was to receive 1.2 million in financing.

6 Q. How much of that was equity and how much was a loan?

7 A. 200,000 of that was a loan.

8 Q. What kind of loan was it?

9 A. It was a loan that had a convertible note to it.

10 Q. Can you explain to the jury what a convertible note is.

11 A. A convertible note, that specific convertible note is if
12 the company doesn't have enough money to pay back the money,
13 they would be able to give you stock, 50 percent to the market.
14 So if the market was trading at 50 cents, you would get stock
15 at 25 cents.

16 Q. At the time the note was issued, who were the holders of
17 that convertible note?

18 A. Me and David.

19 Q. You were joint owners?

20 A. Yes.

21 Q. When the deal closed, who provided the balance of the
22 financing?

23 MR. MASTER: Just one moment. I'm going to publish
24 201-6, which is already in evidence withdrawn, your Honor.

25 Q. How soon after the deal closed did Donna start promoting

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Georgiadis - direct

1 the stock?

2 A. Roughly around 90 days after.

3 Q. When did the promotion start?

4 A. Sometime on or about June.

5 Q. Did you have conversations with Donna about how she was
6 going to handle the promotion?

7 A. Yes.

8 Q. How big did she say the promotion was going to be?

9 A. It was going to be big.

10 Q. How much did she say she was prepared to spend on the
11 promotion?

12 A. Up to a million dollars.

13 Q. What did she say she was going to spend that money on?

14 A. Opt-in email lists and the hiring of other people with
15 opt-in email lists, and other promotions.

16 Q. Who did she say she was going to hire as a source for these
17 email lists?

18 A. What do you mean?

19 Q. What was the name of the company, one of the companies --

20 A. One of the companies' names was Winning Media.

21 Q. What, if any, involvement did the company's management have
22 in this stock promotion that she was managing?

23 A. None.

24 Q. Where was the money going to come from to fund the stock
25 promotion?

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1 A. By selling the stock in the open market.

2 Q. Was the money going to come through the company or directly
3 the Donna?

4 A. What do you mean the money?

5 Q. The money to fund the stock promotion, was the company
6 going to see any of that money?

7 A. Yes.

8 Q. When Donna was going to be paying Winning Media, who would
9 you send the money to to fund Winning Media?

10 A. I would send it to Donna.

11 Q. Did there come a time when you discussed with Donna and
12 David plans for coordinating the selling of the stock with the
13 promotion?

14 A. Yes.

15 Q. What did Donna say she recommended concerning the trading
16 of the stock?

17 A. Recommended that I be the seller of the stock because I was
18 a better stock trader.

19 Q. Than who?

20 A. Than David.

21 Q. Did you discuss the trading of the stock with David as
22 well?

23 A. Yes. He said that he agreed.

24 Q. Who was going to provide direction for what to trade and
25 when?

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Georgiadis - direct

1 A. Donna would provide direction via instant message.

2 Q. Is that similar to how she had guided your trading
3 concerning the promotion-only deals?

4 A. Yes.

5 Q. Did you agree to that proposition?

6 A. Yes.

7 Q. How did you decide to split the proceeds once you had sold
8 the shares?

9 A. The proceeds were split 50-50 after paying Donna's
10 marketing costs and funding the company.

11 Q. What did David say he would do for you once you had sold
12 your shares in the open market to give you proceeds, fund the
13 promotion, and fund the company?

14 A. That he would issue me 50 percent of the stock that I sold
15 of his own.

16 Q. What did he say was the purpose of that?

17 A. To be able to get paid the 50 percent of the proceeds.

18 THE COURT: Would this be a convenient place, Mr.
19 Master?

20 MR. MASTER: This would be fine.

21 (Recess)

22 (Continued on next page)

23

24

25

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Georgiadis - direct

1 (Jury not present)

2 MR. SREBNICK: Judge, you may not have been able to
3 see it, but Mr. Shargel, Mr. Kraemer, myself, and Mr. Master
4 did. When questioned about his sentencing, who would be
5 sentencing him, the witness, Mr. Georgiadis, looked over to you
6 and then answered "the judge," which was a nonverbal way of
7 communicating to the jury that which we had previously agreed
8 would not be communicated to the jury, and that is that you
9 were the sentencing judge in the case.

10 My concern, of course, is now the witness having said
11 that he pled to a conspiracy with David and Donna and now that
12 the jury has been communicated that you are the judge, it might
13 send a message to the jury that you have stamped your
14 imprimatur on this conspiracy having occurred with these three
15 individuals. For that reason I had objected, and at this time
16 I would move for a mistrial.

17 THE COURT: The request is denied.

18 MR. SHARGEL: Short of a mistrial, do you think at
19 this point, your Honor, that it is appropriate to get an
20 instruction on the basis of his testimony that they are not to
21 misuse this testimony about a conspiracy in which he plain-out
22 says he conspired with David and Donna Levy? I don't see the
23 down side, the prejudice.

24 THE COURT: If you can give me a couple of cases that
25 say this is an appropriate instruction in the middle of the

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Georgiadis - direct

1 trial -- there is no doubt it is an appropriate instruction at
2 the end of the trial. I have always given a cooperator
3 instruction and I'm going to do so here. I have never heard of
4 one being given in the middle of a trial, Mr. Shargel.

5 MR. SHARGEL: Judge, if there was a case I could find,
6 I would have given it to you this morning. There was no case.
7 But I can tell you from, trying cases in this district and in
8 the Eastern District, that it is common. It is also common, as
9 your Honor knows, in 404(b) situations, the state of mind
10 exceptions to the hearsay rule, and all sorts of limiting
11 instructions are given during the course of the trial.

12 Another one, for example, pertinent to this case that
13 I didn't request, given the testimony, if I asked for an
14 instruction that the information on a chart, on a summary
15 chart, is no better than the underlying information, that's
16 given at the time that the chart is introduced into evidence,
17 not a week later or whatever time later when the instructions
18 are given.

19 THE COURT: I don't want to keep the jury waiting. We
20 are not going to get to this. How much longer do you have with
21 this witness?

22 MR. MASTER: I'll probably finish by lunchtime.

23 THE COURT: We'll think about it at lunchtime.

24 Marlon, call in the jury.

25 (Continued on next page)

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Georgiadis - direct

1 (Jury present)

2 THE COURT: All right, Mr. Master.

3 BY MR. MASTER:

4 Q. Mr. Georgiadis, approximately when did the Cardiac Network
5 stock promotion actually get started?

6 A. Around June of 2007.

7 Q. Who ran the promotion?

8 A. Donna Levy.

9 Q. Again, as the promotion developed, what involvement, if
10 any, did the company's management have in the stock promotion?

11 A. None. None.

12 Q. How did you decide what shares to sell and when and at what
13 price?

14 A. I would get instructions from Donna via instant message.

15 Q. How were your trades coordinated with the promotion?

16 A. The promotion would go out, and the next morning I would be
17 selling shares.

18 Q. To your knowledge, was David selling any shares at that
19 time?

20 A. Not to my knowledge.

21 Q. Which of the shares that were controlled by you did you
22 sell?

23 A. Shares that I had in Bedrock Ventures.

24 Q. Did there come a time when you saw some of the promotions
25 that Donna was putting out, the stock promotions that Donna was

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Georgiadis - direct

1 putting out for Cardiac?

2 A. I saw some.

3 Q. Was there one in particular that caused you particular
4 concern?

5 A. Yes.

6 Q. I'd like you to take a look at what is already in evidence,
7 Government Exhibit 101-10. It's in front of you.

8 MR. MASTER: If you wouldn't mind publishing that, Mr.
9 Dinet.

10 Q. How did you come to see this promotion?

11 A. She had sent it to me.

12 Q. What in particular, to your mind, caused you greatest
13 concern?

14 A. The price target of \$50 on its way to a hundred dollars.

15 Q. Where is that price target at 50 to \$100 located?

16 A. At page 6 of 11.

17 MR. MASTER: Mr. Dinet, if you wouldn't mind turning
18 to page 6. And if you could zoom in where it says "In 5 years
19 this stock could easily." It's in the middle of the page.

20 Q. Is that what you are referring to, Mr. Georgiadis?

21 A. Yes.

22 Q. "In 5 years this stock could easily be above \$50, maybe
23 well on its way to \$100"?

24 A. Yes.

25 Q. What concerns you about that representation?

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Georgiadis - direct

1 A. I thought it was unrealistic.

2 Q. To whom did you communicate that concern?

3 A. To Donna.

4 Q. What did Donna say in response to your concern?

5 A. She said the higher the better.

6 Q. As the promotion got under way, how much was Donna spending
7 on promotional activities?

8 A. Anywhere between 150 to \$200,000 a week. Sometimes it
9 would go to 50, but most of the time it would be at least a
10 hundred thousand.

11 Q. How did you cover Donna's promotional expenses?

12 A. I would sell stock to fund the -- to reimburse her her
13 money.

14 Q. To cut to the chase, how much in proceeds did you make from
15 sale of Cardiac Network stock into these promotions between
16 June and November of 2007?

17 A. \$4.3 million.

18 Q. If you could describe for the jury what you did with that
19 money.

20 A. I funded the company for the remaining balance of
21 the million, I covered Donna's expenses of roughly around
22 a million dollars in marketing, then I split the proceeds with
23 David 50-50.

24 Q. How did you send the proceeds to David?

25 A. I sent it by wire, wire transfer.

D3brlev2

Georgiadis - direct

1 Q. What was the name of the entity that David used to receive
2 these funds?

3 A. Date Palm Capital.

4 Q. Of the million dollars that the company was getting in
5 financing, how much of that money came from your sale of
6 Cardiac Networks stock into these promotions that Donna was
7 funding?

8 A. A million dollars.

9 Q. 100 percent?

10 A. Yes.

11 Q. What, if anything, did David do to compensate you for the
12 shares that you had sold to cover the promotional costs to pay
13 Donna's expenses and to give you and David each 50 percent of
14 profits?

15 A. Say that again. I didn't hear the question.

16 Q. What did David do to compensate you for the shares that you
17 sold in the manner that you just described?

18 A. He compensated me 500,000 shares, 50 percent of the shares
19 that I had sold.

20 Q. So you had sold approximately a million shares to raise the
21 4.3 million?

22 A. Yes.

23 Q. Did there come a time when David told you about a lie he
24 had told to the company's management?

25 A. Yes.

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Georgiadis - direct

1 Q. What did the lie concern?

2 A. He got on the phonecall with Dr. Gang and Zev Helfer, and
3 they wanted to know about the activity of the shares that were
4 going through the stock. He told them that it wasn't us and
5 that our shares were restricted.

6 Q. Who told you about this conversation?

7 A. David did.

8 Q. What was your reaction to hearing this from David?

9 MR. SHARGEL: Objection to reaction.

10 THE COURT: Overruled.

11 Q. What did you say in response?

12 A. I told him, why would you do that? We have free-trading
13 shares.

14 Q. What did he say in response to that?

15 A. He told me to go with it or this deal is going to blow up.

16 Q. What did he say about their ability to find out what had
17 actually happened?

18 A. They wouldn't find out, he said.

19 Q. Did you agree to go along with the lie?

20 A. I did.

21 Q. Why did you agree to go along?

22 MR. SHARGEL: Objection.

23 THE COURT: Overruled. Why did you go along?

24 A. I didn't want the deal to blow up.

25 Q. Now let's go back to how these payments from your over

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Georgiadis - direct

1 \$4 million in proceeds were distributed. Who got paid first?

2 A. It was a mixed. Some of Donna's marketing costs got paid
3 and then the company was getting funded. Then some of Donna's
4 marketing costs would get paid, and then the company got funded
5 in full.

6 Q. Again, when you were sending money to cover the marketing
7 costs, did the company see any of that money?

8 A. No.

9 Q. Did there come a time when David approached you with
10 concerns about the speed with which you were funding the
11 company?

12 A. Yes.

13 Q. What did he tell you?

14 A. He told me not to fund them so fast, that they were going
15 to spend all the money too quick, and to slow it down.

16 Q. What did he say concerned him about the speed with which
17 you were funding it?

18 A. He was concerned that they wouldn't be able to -- need us
19 anymore as far as that the money would be paid and they
20 wouldn't be able to put out press releases, and so forth.

21 Q. So what did he want you to do?

22 A. He wanted me to slow down the funding.

23 Q. Now I'd like to direct your attention to the spring of
24 2008. Did there come a time when you learned that the
25 Securities and Exchange Commission, or SEC, was inquiring about

D3brlev2

Georgiadis - direct

1 the sale of Cardiac Network stock?

2 A. Yes.

3 Q. Who did you speak to after you learned about this?

4 A. Called David.

5 Q. What did you say to David and what did he say to you about
6 this SEC inquiry?

7 A. He told me not to worry, that there's no victims, to keep
8 calm, and he didn't have any exposure because he didn't sell
9 any stock.

10 Q. What did he tell you to say if there was any inquiry into
11 the money that you had sent him?

12 A. That I purchased shares for them, that I purchased the
13 500,000 shares with the money.

14 Q. Which 500,000 shares are you referring to?

15 A. The 50 percent of the total amount of shares that I had
16 sold in the market.

17 Q. How did he want you to describe the transfer of the funds
18 to him?

19 A. As a purchase.

20 Q. Of what?

21 A. Of stock.

22 Q. When the time came to actually respond to the SEC, did you
23 end up addressing that specific issue with the SEC?

24 A. No.

25 Q. Did you fully disclose all of the details of your secret

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Georgiadis - direct

1 arrangement with David Levy and Donna Levy to the SEC?

2 A. No.

3 Q. Ultimately, what was the result of the SEC inquiry?

4 A. There was no action brought on.

5 Q. I want to ask you a couple of questions about a Porsche
6 Cayenne that you had leased during this time.

7 A. Yes.

8 Q. How did you acquire the Porsche?

9 A. I acquired it at a dealership.

10 Q. What kind of arrangement did you have for the Porsche?

11 A. There was I believe a 36-month lease that I did.

12 (Continued on next page)

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D3BLLEV3

Georgiadis - direct

1 BY MR. MASTER:

2 Q. And who used the Porsche initially?

3 A. I did and then I allowed my wife to use it.

4 Q. And how did your wife like the Porsche?

5 A. She didn't. It was too bumpy. At the time my son was two
6 and it was very dangerous, when we would strap him in the back,
7 his head would bobble all over the place. So she didn't like
8 it at all.

9 Q. At the same time your wife was complaining about the
10 Porsche, what if any needs did Zev have for a vehicle?

11 A. Zev had a need, he had a need for a vehicle to go and
12 basically see doctors for the heart monitors. David had
13 promised him to help him out and be able to get him a contact
14 where he would be able to get financing. He didn't come
15 through in the end.

16 Q. Who is "he," he didn't come --

17 A. David didn't come through in the end in getting him
18 financing for the vehicle.

19 Q. Getting Zev financing?

20 A. Getting Zev financing. So I had about a year and a half
21 left on my SUV and I asked Zev, I said, you know, I trust you.
22 If you want, we can draft up a single-page agreement and if
23 you're willing to take over my payments, I would be willing to
24 let you take over my lease.

25 Q. And so what did you end up doing with the Porsche?

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Georgiadis - direct

1 A. I ended up giving it to Zev and he was making the payments.

2 Q. Did Zev ask you for a Porsche or for another luxury
3 vehicle?

4 A. No. I believe at the time he was looking for something
5 around \$15,000. Just so happened that I had that specific
6 vehicle and I had a problem with it so I offered it.

7 Q. What ended up happening with the vehicle?

8 A. He turned it back in when the lease was up.

9 Q. And what if any fees were owed at the time the vehicle was
10 returned?

11 A. There were some excess fees because of over mileage.

12 Q. And did Zev pay those fees?

13 A. No, I did.

14 Q. What happened to Zev in approximately September 2008?

15 A. He got ousted from the company.

16 Q. Did you agree to vote to oust him?

17 A. I agreed at that time that he wasn't -- the company was
18 seeking more financing and he wasn't qualified to get -- to do
19 the financials and the P&Ls to bring the company to a reporting
20 status.

21 Q. If you would stop for a second.

22 What do you mean by financials and P&Ls?

23 A. Just basically the financial statements. I didn't think
24 that he was that good at providing and getting all the
25 financial statements ready for potential funds. If they wanted

D3BLLEV3

Georgiadis - direct

1 to invest in the company, they were asking for a lot of
2 documentation.

3 Q. What do you mean by reporting status?

4 A. Reporting meaning that the company that Cardiac was, it was
5 a nonreporting Pink Sheet so it didn't have to report to the
6 SEC. And we're looking to get the company to a reporting
7 status where they would have to put out Qs and Ks, quarterlies
8 and annual reports.

9 Q. So a Q is quarterly?

10 A. Is the quarterly.

11 Q. And who is that quarterly report submitted to?

12 A. It's submitted to the SEC.

13 Q. And what is a K?

14 A. A K is your yearly annual.

15 Q. And who is that submitted to?

16 A. To the SEC.

17 Q. And what did you understand the benefit of becoming a
18 reporting company to be?

19 A. It attracted a different level of financing.

20 Q. Now, as discussions, as you had discussions about ousting
21 Zev, what if any accusations did David Levy make about Zev?

22 A. Accused him of stealing money.

23 Q. And what if any evidence did you have that Zev was stealing
24 any money?

25 A. I didn't.

D3BLLEV3

Georgiadis - direct

1 Q. And did you ever uncover any evidence that Zev was stealing
2 money?

3 A. No.

4 Q. And what did you want Zev to continue doing even after he
5 left the CEO position?

6 A. I wanted him to be the vice president of marketing.

7 Q. And why did you want him to be the vice president of
8 marketing?

9 A. I thought that he was the best suited because he came from
10 that background and had success at working at Life Watch, so I
11 figured he would be good at the marketing of the product.

12 Q. After Zev was forced out of the company, what role did you
13 agree to serve in the company?

14 A. I agreed to serve on the board of directors.

15 Q. And who ended up taking over as CEO of the company?

16 A. A gentleman by the name of Michael Swartzburg.

17 Q. Who found Michael Swartzburg?

18 A. David found him.

19 Q. And what if any money did you and David give to Swartzburg,
20 Michael Swartzburg, upon his arrival at the company?

21 A. We gave some pretty much emergency money to keep the lights
22 on.

23 Q. And why did you agree to continue working with the company?

24 A. I wanted to see it long term.

25 Q. And during the fall of 2008, what else did you do to try to

D3BLLEV3

Georgiadis - direct

1 help the company raise money?

2 A. Who is that?

3 Q. Well, I'd like to ask you, are you familiar with something
4 called a share reduction agreement?

5 A. Yes.

6 Q. What was that?

7 A. I agreed to reduce my shares by 50 percent and we put it
8 out on the board of directors and it was approved for all major
9 shareholders and founding members of the company to reduce
10 their shares by 50 percent.

11 Q. And what was your understanding of the purpose of that
12 share reduction agreement?

13 A. It was to lower the market capital of the company, to
14 basically bring in some funds to invest in the company.

15 Q. And what was your understanding of why the share reduction
16 would help that?

17 A. It would be less shares out there.

18 Q. And what did you believe that the new financing would be
19 asking for?

20 A. They would be asking for shares.

21 Q. And what else did you agree to do with your remaining
22 shares post reduction to help the company get financing?

23 A. I agreed to enter into a lockup agreement.

24 Q. And can you just explain what a lockup agreement is?

25 A. It means that all the shares that I held and all the shares

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Georgiadis - direct

1 that any affiliates of mine held were to be held in escrow out
2 of my control.

3 Q. What is escrow?

4 A. Escrow is a holder where they would hold those
5 certificates, could be a lawyer or it could be an escrow agent.

6 Q. And what ability did you have after the shares were in
7 escrow to actually trade those shares?

8 A. I didn't.

9 Q. Now, what happened to the convertible note that had been
10 issued at the time of the merger?

11 A. It got converted.

12 Q. OK. And was that after the share reduction agreement was
13 entered into?

14 A. Yes.

15 Q. And who were the initial owners of that convertible note?

16 A. Me and David.

17 Q. And what did David offer to do with your interest in the
18 convertible note?

19 A. Buy me out.

20 Q. And what did you agree to do after he offered to buy you
21 out?

22 A. I agreed to give him my percentage.

23 Q. In exchange for what?

24 A. For a hundred something thousand dollars, approximately a
25 hundred thousand dollars.

D3BLLEV3

Georgiadis - direct

1 Q. Why did you agree to accept the offer?

2 A. I didn't need any stock.

3 Q. Did you in fact agree to sell your interest in the note?

4 A. Yes.

5 Q. And did David end up paying you the hundred thousand
6 dollars?

7 A. No.

8 Q. What did David end up doing with the note after you'd sold
9 your interest, given your interest to him?

10 A. He converted it into free trading stock.

11 Q. And was that after you had agreed to put your shares in
12 escrow?

13 A. Yes.

14 Q. And after you had agreed to the share reduction agreement?

15 A. Yes.

16 Q. Now I'd like to direct your attention to the fall of 2009.
17 What did you notice happening with the price and trading volume
18 of Cardiac Network's stock during that time?

19 A. It was going up.

20 Q. And what was the status of Cardiac Network stock before
21 this activity in the fall of 2009?

22 A. Pretty dormant.

23 Q. And what do you mean by dormant?

24 A. Not a lot of activity at all.

25 Q. And who did you conclude was selling stock at that time?

D3BLLEV3

Georgiadis - direct

1 A. Excuse me?

2 Q. Who did you conclude was selling stock at that time?

3 A. Well, the only one that had free trading shares was David.

4 Q. And why did he have free trading shares?

5 A. Because he converted that note. And everybody else's
6 shares were locked up, including his.

7 Q. That is his other than --

8 A. Other than the note, yes.

9 Q. -- converted.

10 And what if any developments with the company did you
11 see from your position as a board member that would have
12 justified the dramatic increase in the share price and trade
13 volume that you observed?

14 MR. SREBNICK: Objection.

15 THE COURT: Overruled.

16 Q. You can answer.

17 A. None.

18 Q. And, again, what was the status of the company in the fall
19 of 2009?

20 A. What do you mean by the status?

21 Q. How much money did it have in the bank?

22 A. Not a lot at all. Minimal.

23 Q. And how much revenue was it bringing in?

24 A. Minimal.

25 Q. And what was the status of your shares as of the fall of

D3BLLEV3

Georgiadis - direct

1 2009?

2 A. My shares were held, they were held in escrow.

3 Q. And what involvement, if any, did you have in stock
4 promotion of Cardiac Network stock at that time?

5 A. None.

6 Q. And what if any shares were you able to sell during the
7 period of that promotion?

8 A. None.

9 Q. What if any conversations did you have with David Levy
10 about the promotion?

11 A. None.

12 Q. Why not?

13 A. We weren't talking at the time.

14 Q. Who did you talk to?

15 A. I talked to Michael Swartzburg.

16 Q. And what did you tell him?

17 A. I asked him what was going on with the activity in the
18 company, that I noticed the volume and the price going up and I
19 didn't see any press releases or anything that the company had
20 going on that would have made it jump and act like that. And I
21 said is there a promotion going on? He says not that he knows
22 of, and that was that.

23 Q. And what happened after the upward movement that you
24 observed and that caused you to react in this way?

25 A. What happened what?

D3BLLEV3

Georgiadis - direct

1 Q. What happened to the stock after you observed it move up in
2 this way?

3 A. Stock went down.

4 Q. How far down?

5 A. At least 50 percent.

6 Q. And what happened to the trading volume?

7 A. It ceased.

8 Q. Now I'd like to direction to February 2010. What did you
9 see happening again with the stock price and trading volume?

10 A. I noticed a lot of shares in volume and price increase.

11 Q. And as you saw the stock move again, who did you conclude
12 was selling the stock?

13 A. David.

14 Q. What was the status of your shares as you saw the promotion
15 begin?

16 A. My shares were still locked up.

17 Q. And what involvement if any did you have in promoting
18 Cardiac Network stock at that time?

19 A. None.

20 Q. And who did you talk to about the promotion that you
21 observed?

22 A. Michael Swartzburg.

23 Q. And, again, what was his reaction?

24 MR. SHARGEL: Excuse me, your Honor. I object on
25 hearsay grounds, Michael Swartzburg, based on the record that

D3BLLEV3

Georgiadis - direct

1 we have in this case about what Michael Swartzburg said.

2 THE COURT: Sustained.

3 MR. MASTER: Yes, your Honor.

4 Q. What did you end up trying to do in February 2010 with your
5 shares?

6 A. I tried to get them out of the escrow.

7 Q. And what did you do -- how successful were those efforts?

8 A. Not successful at all.

9 Q. Eventually were you able to get some of your shares
10 unrestricted?

11 A. Yes.

12 Q. And what did you do with shares that you were able to
13 unrestrict?

14 A. I sold some.

15 Q. Whose shares did you sell?

16 A. Sold shares in my mother's and my father's name.

17 Q. And what were the proceeds, approximately, of those share
18 sales?

19 A. 75,000 each.

20 Q. What did you do with that money?

21 A. Went into my parents' account.

22 Q. And how much of that money did you give back to the
23 company?

24 A. None.

25 Q. What ended up happening with Cardiac Networks?

D3BLLEV3

Georgiadis - direct

1 A. Stock went down.

2 Q. And what ended up happening with the actual operations of
3 the company?

4 A. It ceased.

5 Q. Now I want to ask you a few questions about a company
6 called Banneker. I'd like to direct your attention back to
7 mid-2007. Were you still on speaking terms with David Levy and
8 Donna Levy at that time?

9 A. Yes.

10 Q. And did there come a time when you met an individual named
11 Derrick Holmes at the Levy's house?

12 A. Yes.

13 Q. How did you end up meeting Holmes?

14 A. David had called me and said that there was some potential
15 investors that were coming in to talk about investing in
16 Cardiac Network. So I flew down to Florida to meet these
17 investors and talk about the company.

18 Q. Did -- where was the meeting held?

19 A. We first, they came to David and Donna's house.

20 Q. And who do you remember being at that meeting?

21 A. I remember Derrick Holmes, another guy by the name of Tim
22 Hardaway.

23 Q. And who is Tim Hardaway?

24 A. He's an ex-basketball player. Another gal by the name of
25 Bree, and another guy named Ron.

D3BLLEV3

Georgiadis - direct

1 Q. And what did you discuss at the meeting?

2 A. We were just having small talk and kind of bringing in
3 Cardiac. But they, meaning Derrick and this other guy, Ron,
4 started talking more about their company which was Banneker.

5 Q. And what kind of company is Banneker?

6 A. It was a unique company. It was a watch company and the
7 watch had this wooden plate inside that represented Benjamin
8 Banneker, the African-American slave that supposedly, I think,
9 what Derrick said, built the first watch out of wood and that's
10 what the company represented.

11 Q. And what if any celebrity involvement was there in
12 Banneker?

13 A. They had celebrity involvement, Beyonce and Snoop Doggy.

14 Q. And what was the status of the company at the time?

15 A. Excuse me?

16 Q. What kind of company was it, public or private?

17 A. It was a private company.

18 Q. And how much money did you understand them to be looking
19 for?

20 A. I think it was roughly around a couple million dollars.

21 Q. And what did you think about the opportunity?

22 A. I think -- I thought it was a good company.

23 Q. After Holmes and Hardaway and the others left, what if any
24 discussions did you have with David Levy and Donna Levy about
25 this opportunity?

D3BLLEV3

Georgiadis - direct

1 A. Talked about the opportunity and that it was -- Donna liked
2 it because it was a sexy story and it had a lot of celebrities
3 and celebritism tied to it and it was in a hot market, the
4 watches. He was also doing class rings that were supposedly
5 being sold all over the country in different schools, and
6 Beyonce was developing a class ring at the time. So everybody
7 liked the deal.

8 Q. And what did David Levy and Donna Levy ask you to do with
9 Michael Anthony concerning Banneker?

10 A. Acquire a shell.

11 Q. And Michael Anthony is the person who you worked with
12 previously to acquire shells, correct?

13 A. Yes.

14 Q. Did you actually end up acquiring a shell and free trading
15 shares in preparation for Banneker deal?

16 A. I only put in 50 percent of the money for the shell. I
17 didn't acquire free trading shares of Banneker, no.

18 Q. How much money did you put in for the Banneker deal?

19 A. 75,000, and David put another 75.

20 Q. After that first meeting, how much additional interaction,
21 if any, did you have with Holmes?

22 A. I think I spoke to Holmes one time.

23 Q. So who was the primary point of contact with Holmes as the
24 Banneker deal was being negotiated?

25 A. David.

D3BLLEV3

Georgiadis - direct

1 Q. And what did you understand David and Donna to be planning
2 with respect to Banneker?

3 MR. SHARGEL: Objection, foundation.

4 THE COURT: Overruled.

5 Q. In other words, I'll just clarify. Did you understand --
6 what kind of transaction concerning Banneker, the private
7 company, did you understand David and Donna to be planning?

8 A. Reverse merger.

9 Q. And what would be the result of the reverse merger?

10 A. The company Banneker going public and receiving free
11 trading stock.

12 Q. Did there come a time when you had another meeting with
13 David and Donna about the Banneker deal?

14 A. Yes.

15 Q. During that meeting what did David Levy say was another
16 reason why he liked the deal beyond the story?

17 A. He said that Derrick Holmes was stupid and he would be
18 controllable.

19 Q. Now, what ended up happening to the Banneker deal?

20 A. It went public.

21 Q. And what happened to the role that you had anticipated
22 playing in Banneker?

23 A. They kicked me out of the deal.

24 Q. They being who?

25 A. David and Donna.

D3BLLEV3

Georgiadis - direct

1 Q. And did you have any conversation with David Levy where he
2 described why he was kicking you out of the deal?

3 A. Yeah. He said that, you know, he wanted me to concentrate
4 on Cardiac and I didn't have enough money to fund Banneker.

5 Q. And what if anything did he say, what if any effect did he
6 say that the SEC inquiry you described earlier would have on
7 your ability to serve in a similar role on Banneker?

8 A. Well, I had -- there was an SEC interview and it was best
9 that, he said, that I stepped away also because of that regard.

10 Q. And why did he say you needed to step away from Banneker?
11 In other words, how would that hamper your ability to serve in
12 a similar role with Banneker?

13 A. Because I was under an SEC investigation.

14 Q. And after you were excluded from participating in the
15 Banneker deal, did you continue to have discussions with David
16 and Donna about Banneker into 2008?

17 A. Yes.

18 Q. And where were you both living at the time, both you and
19 David and Donna?

20 A. Southern California.

21 Q. And who else -- where were David and Donna living?

22 A. Living in Beverly Hills.

23 Q. And who else, if anyone, was living with David and Donna at
24 that time?

25 A. It was a guy by the name of Christian.

D3BLLEV3

Georgiadis - direct

1 Q. And what role did Donna say that Christian was doing
2 playing with respect to Banneker?

3 A. He was helping with the promotion of Banneker with the
4 message boards.

5 Q. What message boards?

6 A. InvestorsHub.

7 Q. And what was he doing on InvestorsHub?

8 A. He would go on InvestorsHub and tout the stock.

9 Q. What do you mean by tout?

10 A. Put recommendations on there that either a promotion is
11 coming or a press release is coming out, in that nature.

12 Q. And what if any websites did Donna say she was developing
13 to help with the promotional activities?

14 A. I believe it was a website called Wallstreetpremiere at
15 that time.

16 Q. Who was the person who was going to run Wallstreetpremiere?

17 A. She was.

18 Q. She being Donna?

19 A. Yes.

20 Q. Now, what if any complaints did David say that he had about
21 Holmes when you were discussing Banneker with him in 2008?

22 A. That he was spending too much money.

23 Q. And what did David say he was considering doing with the
24 funding that he had promised Holmes?

25 A. He was either going to stop it or slow it down.

D3BLLEV3

Georgiadis - direct

1 Q. And what involvement, if any, did you have in stock
2 promotions concerning Banneker?

3 A. None.

4 Q. What if any shares of Banneker did you acquire or sell?

5 A. None.

6 Q. Have you ever acquired any shares of a company called
7 Emerging World Pharma?

8 A. No.

9 Q. What if any involvement did you have in any stock promotion
10 concerning Emerging World Pharma?

11 A. None.

12 Q. When if ever have you acquired shares in a company called
13 Greenway Design Group?

14 A. None.

15 Q. What involvement if any did you have in any stock promotion
16 activity or stock sales concerning Emerging World Pharma or
17 Greenway Design Group?

18 A. None.

19 MR. MASTER: Just a moment, your Honor.

20 Nothing further.

21 THE COURT: Mr. Shargel.

22 MR. SHARGEL: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. SHARGEL:

25 Q. Mr. Georgiadis, my name is Jerry Shargel and I represent

D3BLLEV3

Georgiadis - cross

1 David Levy.

2 You and I just met. We've never spoken before, have
3 we?

4 A. No.

5 Q. We've never met before; isn't that right?

6 A. No.

7 Q. Well, isn't that right meaning we never met before?

8 A. No, we never met before.

9 Q. So a few moments ago you -- by the way, when is the last
10 time you had a conversation with David Levy, when did you stop
11 talking as you reported?

12 A. When did I stop talking to him in what?

13 Q. When did you stop talking to him?

14 A. I believe sometime in 2008, I think, late 2008, early 2009,
15 somewhere around there.

16 Q. So for the past four years or so, you and he haven't
17 exchanged a word, right?

18 A. No.

19 Q. And that wasn't just by some coincidence, right?

20 A. What do you mean?

21 Q. In other words, you stopped talking to him because of
22 feelings that you had toward him, right?

23 A. Stopped talking to him because I didn't want to do business
24 with him anymore.

25 Q. You didn't want to do business with him anymore after that

D3BLLEV3

Georgiadis - cross

1 time in 2008 and 2009, right?

2 A. Right.

3 Q. You said a few moments ago in connection with Mr. Holmes
4 from the Banneker company -- do you remember being asked
5 questions about Mr. Holmes?

6 A. Yes.

7 Q. And do you remember recounting that David Levy said that
8 Mr. Holmes was spending too much money, right?

9 A. Yes.

10 Q. That wasn't in connection with Banneker business, was it?

11 A. It was money that he was getting funded for Banneker.

12 Q. And he was taking that money that was being funded for
13 Banneker and spending it elsewhere; wasn't that right?

14 A. I don't know where he was spending it.

15 Q. Isn't it a fact, sir, that Mr. Levy said to you that
16 Mr. Holmes was spending money on shopping and buying things for
17 himself with money that had been invested; didn't he tell you
18 that?

19 A. He might have.

20 Q. Now, you had a number of companies that either went public
21 or tried to bring public before you even met Mr. Levy, right?

22 A. I had one, yes.

23 Q. The pizza business, your family pizza business, that was
24 one, right?

25 A. Yes, yes.

D3BLLEV3

Georgiadis - cross

1 Q. There was another company that you said with this direct
2 dialing; do you remember that?

3 A. Yes.

4 Q. And were there any other efforts, am I leaving anything out
5 about your efforts to take companies public before the day that
6 you meet David Levy for the first time in your life?

7 A. No.

8 Q. So when you met David Levy, it was in connection with and
9 you spoke to David Levy about Cardiac Network. Remind us again
10 when that was.

11 A. That was sometime in either late 2006, early 2007.

12 Q. And that very first meeting took place where?

13 A. Over the phone.

14 Q. And you later met with him in person?

15 A. Yes.

16 Q. And where did you meet with him in person?

17 A. In Florida.

18 Q. And his house in Florida?

19 A. At a restaurant.

20 Q. At a restaurant. Did you go back to his house?

21 A. Yes.

22 Q. And David Levy was excited about that company, right?

23 A. Yes.

24 Q. Cardiac Network, yes?

25 A. Yes.

D3BLLEV3

Georgiadis - cross

1 Q. And he was getting you excited about it, right?

2 A. Yes.

3 Q. Because you thought it made good business sense, right?

4 A. Yes.

5 Q. And you thought that this was a business with a future,
6 correct?

7 A. Yes.

8 Q. Did you ever get to see the Cardiac monitor?

9 A. Yes.

10 Q. Where did you see it, down in Florida?

11 A. Saw it at that lunch meeting.

12 Q. By the way, forgive me for digressing for a moment.

13 Did you ever hear of a company called Target
14 Development Group?

15 A. Yes.

16 Q. That was a company that you were involved with, right?

17 A. Yes.

18 Q. In fact, that was after Cardiac, right?

19 A. Yes.

20 Q. After you stopped talking to David Levy, right?

21 A. Yes.

22 Q. And Target Development Group, you were selling stock from
23 an empty shell, right?

24 A. Wrong.

25 Q. Sir, what was the product that Target Development Group was

D3BLLEV3

Georgiadis - cross

1 selling, developing, manufacturing, or any of those things?

2 A. There were DVDs. There was a merger.

3 Q. Merger with what, a reverse merger?

4 A. No. A stock swap with a company called Hanover House.

5 Q. What happened to that company, Target Development Corp.?

6 A. Still exists.

7 Q. Are you still a shareholder?

8 A. No.

9 Q. Do you have any equity or ownership interest in that
10 business?

11 A. No.

12 Q. Let me ask you this question: When you obtained, when you
13 first had a discussion about obtaining shares of Cardiac
14 Network, can you think back to that time?

15 A. Yes.

16 Q. And you had meetings with people from a company called
17 Century Capital Partners; do you remember that?

18 A. Yes.

19 Q. And you were interested in getting free trading stock,
20 right?

21 A. Yes.

22 Q. And when you had that, you had those conversations with
23 Century Capital Partners and Mr. Levy, you wanted to make
24 certain that you had free trading stock, right?

25 A. I asked for free trading stock.

D3BLLEV3

Georgiadis - cross

1 Q. And you asked for free trading stock at meetings that you
2 had, subsequent meetings that you had in connection with this
3 business, Cardiac Network, correct?

4 A. Yes.

5 Q. And you were assured that your stock would be free trading,
6 right?

7 A. Yes.

8 Q. And you were assured and you heard that David Levy's stock
9 would be free trading, correct?

10 A. Yes.

11 Q. As a matter of fact, you had a meeting not only in Florida
12 meeting Zev Helfer and others, Eric Buchwald was one of them,
13 right?

14 A. Yes.

15 Q. That meeting in Florida, David Levy was there, right?

16 A. Yes.

17 Q. You had a meeting out in Los Angeles, didn't you?

18 A. Yes.

19 Q. You met with Dr. Gang, right?

20 A. Yes.

21 Q. Because before you actually invested in and before you got
22 involved with Cardiac, you wanted to do some due diligence;
23 isn't that a fair statement?

24 A. Needed to meet Dr. Gang, yeah.

25 Q. And meeting Dr. Gang was in an effort to do your due

D3BLLEV3

Georgiadis - cross

1 diligence, right?

2 A. Yes, that, and also Dr. Gang I think at that time requested
3 for a meeting. He was the third person in the group. But he
4 was all the way out here in L.A. so we came out here to see
5 him.

6 Q. When you say here, it's the other coast, right, Los
7 Angeles?

8 A. I'm sorry. He was in Los Angeles, yes.

9 Q. So you went out to see Dr. Gang. You knew what his role in
10 the company was, right?

11 A. Yes.

12 Q. And that he was the medical adviser, right?

13 A. Yes.

14 Q. And you learned or you were told that Dr. Gang was a
15 cardiologist of some prominence?

16 A. Yes.

17 Q. Well-known throughout the United States, right?

18 A. Yes.

19 Q. You used the word this was a sexy company; do you remember
20 using that word?

21 A. Yes.

22 Q. Sexy meaning that it was an interesting company with a good
23 product, seemingly very good product, right?

24 A. Yes.

25 Q. As you saw, there was -- by the way, did you receive a

D3BLLEV3

Georgiadis - cross

1 prospectus or a prediction of what the company would be earning
2 in the short years ahead?

3 A. I don't remember. I remember some type of business plan.

4 Q. A business plan that was presented to you by whom?

5 A. I believe it was by Zev.

6 Q. One of the reasons that you wanted free trading stock was
7 because you had a fair amount invested in the business, right?

8 A. I wanted protection for my investment, yes.

9 Q. You wanted your investment to be protected and you believed
10 then, as you likely believe now, that that's a good way to
11 protect your investment, right?

12 A. It's what I asked for.

13 Q. Because if you have restricted shares, that wouldn't be
14 very protective because they would be totally illiquid, right?

15 A. Well, the restrictions do come off at one point in time.
16 But at that moment, yes, they would be illiquid.

17 Q. Because the restriction may come off, but that could be a
18 year or so down the road, right?

19 A. Correct.

20 Q. And your confidence in the company was also exhibited by
21 the fact that you gifted a number of shares, gifted a number of
22 shares to family members, right?

23 A. I put stock in family member's name, yes.

24 Q. Because you saw this as a long-time investment, right?

25 A. Well, there was a rule that we needed to get around which

D3BLLEV3

Georgiadis - cross

1 is five to ten percent rule that I was told.

2 Q. Do you remember telling, putting the five or ten percent
3 rule to one side for the moment, do you remember saying that
4 you saw this as a long-term investment, in other words, you
5 believed in the product and you saw the possibility of this
6 becoming a long-term investment?

7 A. Yes.

8 Q. No question about that, right?

9 A. Yes.

10 Q. This was a real, as you saw it then, a real possibility of
11 becoming a significant company and moving from penny stocks and
12 Pink Sheets onto the big board, the New York Stock Exchange, or
13 some other much more significant stock exchange, right?

14 A. Depends, I guess, on the business and how it progressed.

15 Q. Now, do you remember, sir, you told us about meeting with
16 people from the SEC. When I say people, we know what we're
17 talking about, investigators, right, from the SEC?

18 A. I didn't say I met with any SEC investigators. I said I
19 received a questionnaire.

20 Q. And you filled out that questionnaire, right?

21 A. I seeked legal counsel.

22 Q. And legal counsel or not, were there some things on that
23 questionnaire filled out by you that were not true?

24 A. I can't go into my client-attorney privilege.

25 Q. I'm not asking about any communication that you had with

D3BLLEV3

Georgiadis - cross

1 your client. You're the one, as you said a moment ago, that
2 filled out the questionnaire, right?

3 A. I sat down with my attorney and I answered the questions.

4 Q. Well you're the one that had the information, right?

5 A. I had the information, yes.

6 Q. The attorney wasn't the one who was investing, was he?

7 A. No, sir.

8 Q. You were investing and you knew what the answers to the
9 questions were, right?

10 A. Yes.

11 Q. And now, my question to you, sir, on that day, when you
12 filled out that questionnaire for the SEC, did you
13 deliberately, willfully, and intentionally say things that were
14 not true?

15 A. Yes.

16 Q. In December of 2010, actually, December of 2011, do you
17 remember having a meeting with representatives of the U.S.
18 Attorney's Office in this district and an investigator from
19 this district?

20 A. Yes.

21 Q. In fact, the investigator is seated right there at the
22 prosecution table, you recognize him full well, don't you?

23 A. Yes, sir.

24 Q. That's Mr. Reinhardt over there, correct?

25 A. Yes, sir.

D3BLLEV3

Georgiadis - cross

1 Q. And in December of 2011, you met with Mr. Reinhardt and one
2 of the prosecutors at this table, right?

3 A. Yes, sir.

4 Q. Where did that meeting take place?

5 A. Took place at my lawyer's office in California.

6 Q. And you were asked a number of questions, right?

7 A. Yes, sir.

8 Q. And you answered those questions, didn't you?

9 A. Yes, sir.

10 Q. You weren't in any U.S. Attorney's Office, you were in your
11 own lawyer's office out in Huntington Beach, California, right?

12 A. Irvine, California, sir.

13 Q. I'm sorry?

14 A. Irvine, California.

15 Q. Irvine, California?

16 A. Yes, sir.

17 Q. So the location Spectrum Law Group, that was your
18 attorney's firm, right?

19 A. Yes, sir.

20 Q. And it said Huntington -- forget what it said. Remind me
21 again, we're from New York. Where in California?

22 A. Irvine, California.

23 Q. Irvine, California. Just so we know, where is Irvine,
24 California in relation to Los Angeles? Just a matter of
25 geographical interest.

D3BLLEV3

Georgiadis - cross

1 A. OK. Are you asking me a question where Irvine is?

2 THE COURT: Where is Irvine in relation to Los
3 Angeles?

4 THE WITNESS: It's about 45 minutes away from Los
5 Angeles in Orange County.

6 Q. How long was the meeting that you had?

7 A. Pretty much lasted all day.

8 Q. All day?

9 A. From I'd say 10 o'clock till 5:30.

10 Q. 10 o'clock in the morning until 5:30 in the afternoon?

11 A. I believe so.

12 Q. Before the meeting started, do you remember the prosecutor
13 telling you certain things about the conditions of the meeting?

14 A. Yes, sir.

15 MR. SHARGEL: Your Honor, before I go any further, I'd
16 like to read a stipulation that was entered into this morning.

17 THE COURT: All right.

18 MR. SHARGEL: It will be marked, I think on
19 stipulations we're up to C6, if memory serves.

20 THE COURT: All right.

21 MR. SHARGEL: We'll mark this for identification and I
22 will offer it in evidence.

23 Once again, it's stipulated and agreed -- and I'm
24 going to just say --

25 THE COURT: Skip the parties.

D3BLLEV3

Georgiadis - cross

1 MR. SHARGEL: -- the lawyers on both sides.

2 Fotis Georgiadis signed a proffer agreement at the
3 time of his meeting with the United States Attorney's Office
4 for the Southern District of New York on December 13, 2011,
5 that is identical to the one he signed on January 30, 2013, and
6 it is identified as 3503-16 in the 3500 material provided by
7 the government.

8 And I offer this stipulation into evidence, if I may.

9 MS. COHEN: No objection, your Honor.

10 THE COURT: OK. The stipulation is received in
11 evidence.

12 (Defendant's Exhibit C6 received in evidence)

13 Q. When you prepared for your testimony here today, you were
14 asked questions about proffer agreements, right?

15 A. From who?

16 Q. Proffer agreement, by the prosecutors as they were
17 preparing your testimony. They asked you questions. They
18 prepped you. There's nothing wrong with it. They prepped you
19 for answers in connection with proffer agreements. Right?

20 A. I don't know about the proffer agreement, if they --

21 Q. The stipulation that I just read.

22 A. OK.

23 Q. Did that come as a surprise to you or did you know it was
24 coming?

25 A. I know I signed a proffer agreement. But I don't know what

D3BLLEV3

Georgiadis - cross

1 you're talking about with the government and the proffer
2 agreement.

3 Q. So on -- since we have this stipulation, I'm now referring
4 to 3503-16, which is a proffer agreement from January 30, 2013,
5 with the understanding that it's identical to the one you
6 signed on December 13, 2011.

7 A. Yes.

8 Q. Do you have that, we're on the same page?

9 A. Yes, sir.

10 Q. So before you actually started talking to the government
11 that morning at 9:30 or whatever time it was, before you
12 started talking to the government, the government laid out the
13 understandings that would surround the proffer agreement that
14 you were making, right?

15 A. Yes, sir.

16 Q. You understood or you were told that a proffer agreement
17 served a certain role, you understood what you were doing,
18 right?

19 A. Yes, sir.

20 Q. You have to answer orally.

21 A. Yes, sir.

22 Q. You had the benefit of counsel, right?

23 A. Yes, counsel was there.

24 Q. Your lawyer was at the meeting as well, at that point
25 Mr. Rosenbaum, right?

D3BLLEV3

Georgiadis - cross

1 A. Yes, sir.

2 Q. And you were asked, you were told by the prosecutor that
3 the purpose of this meeting was to see whether you would be
4 eligible for a cooperation agreement; do you remember him
5 telling you that?

6 A. If I was eligible for a cooperation agreement?

7 Q. Yes. In other words, that the information you were giving
8 was pursuant to an agreement. Let me show you what's been
9 marked as 3503-16.

10 MR. SHARGEL: Permission of the Court?

11 THE COURT: Yes.

12 Q. And I ask you to take a look at that and I ask if you
13 recognize that as the proffer agreement, even though that has a
14 different date because one was lost, the proffer agreement of
15 December 13, 2011.

16 A. I remember signing this.

17 Q. That's your signature on the last page, right?

18 A. Yes, sir.

19 Q. And when you signed it, if I may retrieve it, you knew what
20 it meant, right?

21 A. Yes.

22 Q. You were there to talk to the government -- when I say the
23 government, people representing, the two people representing
24 the government that day -- you were there to talk to the
25 government about the possibility of you becoming a cooperating

D3BLLEV3

Georgiadis - cross

1 witness, right?

2 A. Are we talking in December?

3 Q. December of 2011, yes.

4 A. I was there being asked questions.

5 Q. Did you receive a subpoena to go to that meeting?

6 A. Yes.

7 Q. So you were there because of a subpoena?

8 A. I received a subpoena, yes.

9 Q. And once you got there, did the prosecutor explain to you
10 what a proffer agreement was?

11 A. I believe he did, yes.

12 Q. And when he explained it to you, he told you that this
13 interview was taking place in order to determine whether they
14 would offer you a cooperation agreement, right?

15 A. I don't remember that. He might have. I don't remember.

16 Q. You just don't remember?

17 A. I don't remember that meeting took place for me to be
18 eligible for a cooperation agreement.

19 Q. Let me ask you this: Did you understand that that meeting,
20 were you told by the prosecutor that to lie to a federal
21 agent -- and Mr. Reinhardt is a federal agent, make no mistake
22 about it -- to lie to a federal agent is a violation of the
23 federal criminal law; were you told that?

24 A. Yes, sir.

25 Q. You clearly understood that, right?

D3BLLEV3

Georgiadis - cross

1 A. Yes.

2 Q. And were you told, sir, on that day in December 2011 that
3 to lie to an assistant United States attorney, from whatever
4 district, is a federal crime?

5 A. Yes, sir.

6 Q. You understood full well that day, sir, that lying was a
7 crime, right?

8 A. Yes, sir.

9 Q. And you told us that you came home and your daddy smacked
10 you and this one and you had all kinds of reactions to what
11 occurred, right?

12 A. Yes, sir.

13 Q. You felt very badly on the inside, right?

14 A. Yes.

15 Q. And because you knew, just like your father knew before he
16 smacked you, that you went and lied about certain things to an
17 assistant United States attorney and special federal agent
18 Mr. Reinhardt, right?

19 A. I did, sir.

20 Q. You committed a crime, right?

21 A. I wasn't truthful and I tried to make it right right away.

22 Q. Not my question. You committed a crime, right?

23 A. Yes, yes.

24 Q. That was right in the agreement, paragraph 2. The
25 agreement that you signed, it said that if you lied, your words

D3BLLEV3

Georgiadis - cross

1 could be used against you because you committed a crime.

2 Right?

3 A. It was wrong.

4 Q. I didn't ask you whether you were wrong or right. I just
5 wanted to ascertain, you knew within hours of leaving that
6 meeting that you, sir, had committed a crime, yes or no?

7 A. I knew within hours of leaving that meeting that what I had
8 done was wrong and I needed to make it right right away and I
9 was going to call, but Mr. Reinhardt was in flight. He had
10 left.

11 Q. Are you done?

12 A. Yes, sir.

13 Q. There are lots of things in life that we do that are wrong.
14 I'm not asking you about things that we do that are wrong.
15 That happens to me every day.

16 My question to you, sir, my question to you is did you
17 know after leaving that meeting, whether it was minutes or
18 hours or days, did you know after leaving that meeting that you
19 had committed a federal crime, a crime; do you understand that?

20 A. In my head, no. In my head I didn't think I committed a
21 crime. I thought that, you know, by calling that I was
22 changing it and I was making it right.

23 Q. And that took you off the hook for the crime?

24 A. That's what I thought.

25 Q. Did Mr. Reinhardt -- you reached Mr. Reinhardt, right?

D3BLLEV3

Georgiadis - cross

1 A. Reached him in the morning, yes.

2 Q. You told him in the morning that you had lied, right?

3 A. I told him that I wanted to cooperate and I felt bad how
4 the meeting went and I wasn't truthful and to give me 24 hours
5 to seek new counsel.

6 Q. So you sought new counsel, right?

7 A. Yes, sir.

8 Q. You retained new counsel, right?

9 A. Yes.

10 Q. And then and then what happened, you went, had another
11 meeting with Mr. Reinhardt?

12 A. No.

13 Q. No, right?

14 A. No.

15 Q. You didn't have a meeting in December of 2011 at all,
16 right, no meeting?

17 A. No.

18 Q. You're shaking your head but you have to answer.

19 A. I only had that one meeting in December of 2011.

20 Q. We're past that meeting now.

21 A. Because you said 2011. I got confused.

22 Q. You had the meeting in December of 2011.

23 A. OK.

24 Q. And I'm asking you, sir, did you meet with Mr. Reinhardt or
25 any, either of the prosecutors later in December, say around

D3BLLEV3

Georgiadis - cross

1 Christmas time in December of 2011?

2 A. No, sir.

3 Q. And did you meet with them to correct it and make it right?

4 Do you remember you just said a few moments ago you were going
5 to make it right?

6 A. To seek new counsel.

7 Q. You sought new counsel and you weren't going to make it
8 right by seeking new counsel. You said you were going to come
9 in and tell the truth. Right?

10 A. And I started cooperating to my attorney, my new attorney.

11 Q. To your new attorney?

12 A. Yes.

13 Q. But your new attorney didn't work for the government,
14 right?

15 A. No, he didn't.

16 Q. He was a private attorney that was retained by you, right?

17 A. Yes, sir.

18 Q. As you pointed out a few minutes ago, you made that
19 reference to privilege, he was your attorney, right?

20 A. Yes, sir.

21 Q. So my question to you is about government attorneys,
22 assistant United States attorneys, special agents like Agent
23 Reinhardt. Did you have a meeting with Agent Reinhardt or any
24 prosecutor in January of 2012?

25 A. Yes.

D3BLLEV3

Georgiadis - cross

1 Q. You had a meeting?

2 A. January of two thousand what?

3 Q. Twelve, '12.

4 A. No, no, I didn't. No, I'm sorry, confusing the dates.

5 Q. Three weeks, one week, two weeks. Your meeting that you
6 said you lied at was December 13?

7 A. Right, no, I didn't. No, sir.

8 Q. No meeting in January, right?

9 A. No.

10 THE COURT: OK. Is this a convenient place to break,
11 Mr. Shargel? It's about lunch time.

12 MR. SHARGEL: Sure. One more question.

13 Q. No meeting in February, right?

14 A. No, sir.

15 THE COURT: OK. Thank you. Want to take care of
16 three months.

17 (Continued on next page)

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D3BLLEV3

Georgiadis - cross

1 (Jury not present)

2 THE COURT: OK, Mr. Georgiadis, you can step down.

3 Mr. Georgiadis, you're on cross-examination now so
4 don't talk to the government during lunch break.

5 THE WITNESS: OK.

6 (Witness not present)

7 THE COURT: Anything to take up?

8 MR. SHARGEL: No, sir.

9 THE COURT: Mr. Shargel, I'll have an answer for your
10 question right after lunch break.

11 MR. SHARGEL: Very well. Thank you.

12 (Luncheon recess)

13 (Continued on next page)

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Georgiadis - cross

AFTERNOON SESSION

2:00 p.m.

(Jury not present)

THE COURT: I want to tell you I considered this issue that I said to Mr. Shargel I'd consider. I'm disposed to grant the application. Ms. Cohen?

MS. COHEN: That's fine, your Honor.

MR. SHARGEL: Thank you, your Honor.

(Jury present)

FOTIS GEORGIADIS, resumed.

THE COURT: Mr. Shargel.

MR. SHARGEL: Is your Honor going to give that instruction now?

THE COURT: At the end.

CROSS-EXAMINATION (continued)

BY MR. SHARGEL:

Q. Before the break, I'm not going to go through every month of the year, but the fact is that in 2012, I stopped at February before the break, and I ask you now: March, April, May June you still didn't see the government, right, not you personally?

A. 2012?

Q. 2012.

A. No, I didn't.

Q. No contact. You yourself had no contact or meeting with

D3BLLEV3

Georgiadis - cross

1 the agents or the prosecutor, right?

2 A. No.

3 Q. You're shaking your head. You have to answer.

4 A. No, sir. No.

5 Q. Continuing through the rest of the year, through 2012,
6 right up to New Year's Eve 2012, still no contact, correct?

7 A. No.

8 Q. It's in January of 2013. Do you remember the date, by the
9 way?

10 A. Sometime in the end of January.

11 Q. January 30, 2013, ring a bell?

12 A. Yes.

13 Q. Shortly before this trial was about to begin?

14 A. Yes.

15 Q. You understood full well why it was that you personally had
16 no contact with the agents from December of 2011 to January of
17 2013. You understood why, correct?

18 A. I was cooperating through my attorney.

19 Q. Sir, you understood the reason for the delay. It had
20 nothing to do with cooperation with your attorney. I'm asking
21 you, sir, did you or did you not understand the reason why it
22 was that your personal contact with the government was put off?

23 A. I was cooperating through my attorney.

24 Q. Sir, your attorney had how many meetings with the
25 government from the time in December 2011 to January of 2013,

D3BLLEV3

Georgiadis - cross

1 if you know?

2 A. I don't know.

3 Q. You, sir, were waiting to see if you could become a
4 citizen, right?

5 A. No.

6 Q. Sir, do you understand --

7 A. What do you mean I was waiting?

8 Q. You were waiting because your attorneys asked the
9 government not to have any further meetings with you until your
10 citizenship application was completed and approved. You knew
11 that, didn't you?

12 A. I can't get into my attorney-client privilege, sir.

13 Q. Sir, I ask as you sit here now, on the basis of your
14 knowledge today, present knowledge, isn't it a fact, sir,
15 privilege issues aside, is it not a fact that you did not have
16 contact with the government as a benefit to you to apply for
17 and become a United States citizen?

18 A. I was cooperating through my attorney, sir.

19 Q. You gave us that answer. I put the question again to you.
20 Sir, is it not a fact that you expressly asked the government
21 and your attorneys expressly asked the government on your
22 behalf not to have any contact with you until you applied for
23 and became a United States citizen? Yes or no, sir.

24 A. I don't know that, sir, no.

25 Q. You don't know that as you sit here now?

D3BLLEV3

Georgiadis - cross

1 A. No.

2 Q. In December of 2011, at that time that you had the meeting,
3 in mid December 2011, were you a United States citizen?

4 A. No, sir, I wasn't.

5 Q. Were you a United States citizen at any time during the
6 acts that you told us that you engaged in? Were you a United
7 States citizen?

8 A. The what?

9 Q. The acts that you said that you engaged in at the time you
10 had the conversations with my client and others, were you a
11 United States citizen?

12 A. At the time I had contact with your client?

13 Q. Yes.

14 A. In the years of when?

15 Q. In the years of 2007, 2008, and 2009, were you a United
16 States citizen?

17 A. No, I was not, sir.

18 Q. Were you a United States citizen in 2010?

19 A. No, I was not, sir.

20 Q. Were you a United States citizen in 2011?

21 A. No, I was not.

22 Q. Do you know as you sit here now that if a noncitizen such
23 as yourself, as you described it, if a noncitizen is convicted
24 of a felony, that person is deported from the United States?
25 You know that, right?

D3BLLEV3

Georgiadis - cross

1 A. Yes, sir.

2 Q. You said on direct examination you have been in the United
3 States since you're 3 years old, right?

4 A. Yes, sir.

5 Q. You said in your direct examination that you had children
6 here in the United States, right?

7 A. American citizen children, yes.

8 Q. American citizen wife also, right?

9 A. Yes, sir.

10 Q. But you knew full well that if you were convicted of a
11 felony, you would be deported. Whether you were here at 3
12 years old, 2 years old, or 1 year old, you knew that, didn't
13 you?

14 A. I knew what?

15 Q. You knew that you had an application for citizenship
16 pending, and you didn't want anything to happen in connection
17 with your case until that application was pending?

18 A. Sir --

19 Q. I'm sorry. I misspoke. Until that application was
20 resolved.

21 A. Sir, I wasn't being accused of a crime. I sought advice
22 from my counsel. He told me to seek advice from immigration
23 counsel. We didn't know our outcome in the case. And I did
24 what my counsel advised me to do. I cannot go into client-
25 attorney privilege on that, sir.

D3BLLEV3

Georgiadis - cross

1 Q. Who told you that when you came here this morning, you
2 wouldn't be able to go into privileged communications?

3 A. Who told me what?

4 Q. Who told you to assert the lawyer-client privilege?

5 MR. MASTER: Objection, your Honor.

6 A. My attorney.

7 THE COURT: Overruled. Your attorney told you?

8 THE WITNESS: Yes.

9 THE COURT: His attorney told him, Mr. Shargel.

10 Q. Did you know, sir, from meetings with the government or
11 from other information that you had available to you, that your
12 attorneys had reached out to the government on your behalf?

13 A. When?

14 Q. In 2012.

15 A. I'm not understanding the question.

16 Q. Then I'll put it more clearly if you're not understanding
17 the question.

18 A. OK.

19 Q. You said a short while ago that you were cooperating with
20 the government through your attorneys, right?

21 A. Yes, sir.

22 Q. That you yourself, the source of the information, met with
23 no one from the government during 2012, right?

24 A. The what?

25 Q. You were the source of the information, right?

D3BLLEV3

Georgiadis - cross

1 A. Yes, sir.

2 Q. Your attorney wasn't with you when you had these meetings,
3 right? Your attorney, Mr. Nessum, the attorney that you hired
4 when you were told to get another attorney.

5 A. Which meetings?

6 Q. The meetings that your attorneys had with the government,
7 you were not present, you were not questioned directly by
8 anyone from the government, right?

9 A. No, sir, I wasn't.

10 Q. You knew and understood full well why you weren't in
11 contact with the government, didn't you?

12 A. We were cooperating. Through my attorney, I was
13 cooperating, sir, with the government.

14 Q. Are you finished?

15 A. Yes, sir.

16 Q. In other words, your attorneys were speaking to the
17 government on your behalf?

18 A. I would assume so.

19 Q. You authorized the attorneys to make statements to the
20 government that had previously been confidential between you
21 and the attorneys?

22 A. I don't know if I authorized. I was just having
23 discussions with my attorney and presenting documentation to my
24 attorney, and my attorney would handle it, sir.

25 Q. As you said a while ago, a very short while ago, your

D3BLLEV3

Georgiadis - cross

1 attorneys were cooperating with the government, right?

2 A. Yes.

3 Q. So you knew that the attorneys were giving the government
4 information, right?

5 A. I thought that's how it worked.

6 Q. That's not my question. You knew that your attorneys were
7 giving information to the government?

8 A. I don't know if they talked on a daily basis, but I do know
9 that they were talking to the government, yes, sir.

10 Q. I'm not asking about on a daily basis. Your last answer
11 was you knew they were talking to the government, right?

12 A. Yes.

13 Q. You authorized them to talk to the government?

14 A. I don't know if I used that word, "I authorize you to speak
15 to the government." Yes, I think so, yes.

16 Q. Did you ever stop them? Did you ever say, don't talk to
17 the government, don't give up my secrets?

18 A. No, no, no, I didn't.

19 Q. They were working on your behalf to persuade the government
20 that the case should be resolved in a certain way, right?

21 A. They were working with the government, sir, yes.

22 Q. When you say working with the government --

23 A. They were cooperating with the government: Documentation,
24 my discussions that I had with my attorney. I don't know how
25 he placed those discussions with the government; I wasn't

D3BLLEV3

Georgiadis - cross

1 there.

2 Q. That was something that you authorized him to do, right?

3 A. Yes, sir.

4 MR. SHARGEL: I have an application to make, your
5 Honor, at the appropriate time, that the lawyer-client
6 privilege has been waived by his authorization to have the
7 attorneys talk to the government.

8 THE COURT: OK. Are you making it now?

9 MR. SHARGEL: I'm ready to make it now. I can make it
10 now.

11 THE COURT: I'll reserve on it. Go on to the next
12 question.

13 MR. SHARGEL: Very well.

14 BY MR. SHARGEL:

15 Q. The next question is that you didn't meet with the
16 government again, you didn't meet with the government lawyers
17 again -- now I'm talking not about your attorneys, I'm talking
18 about you yourself -- until January of 2013, right?

19 A. Yes.

20 Q. I think you said the end of January 2013, right?

21 A. Yes.

22 Q. You knew when the trial in this case started, right? March
23 4, 2013.

24 A. Yes.

25 Q. Do you remember meeting with the government and discussing

D3BLLEV3

Georgiadis - cross

1 another proffer session with you personally?

2 A. In January.

3 Q. On January 30, 2013?

4 A. Yes.

5 Q. This was the same proffer agreement that you entered into
6 and signed as we had it before the lunch hour that they signed
7 back in 2011, right?

8 A. Yes.

9 Q. I think I showed you this once. If necessary, I'll show it
10 to you once more. It's been marked for identification as
11 3503-16. I think you said before that you recognized the
12 signature.

13 MR. SHARGEL: May I stay here for one moment, your
14 Honor?

15 THE COURT: Yes.

16 Q. I think you said you recognize the signature at the bottom
17 of the page, page 2?

18 A. Yes. My signature?

19 Q. Yes.

20 A. Yes.

21 Q. You signed it, right?

22 A. Sure.

23 Q. May I have it?

24 A. Yes.

25 MR. SHARGEL: I offer this into evidence.

D3BLLEV3

Georgiadis - cross

1 MR. MASTER: No objection.

2 THE COURT: 3503-16, Mr. Shargel?

3 MR. SHARGEL: Yes, sir.

4 THE COURT: It is received in evidence.

5 (Defendant's Exhibit 3503-16 received in evidence)

6 MR. SHARGEL: Could we publish this, Jennifer, blowing
7 up the first paragraph.

8 Q. You read the agreement before you signed it, right?

9 A. Yes, sir.

10 Q. The prosecutor again, as is his obligation, explained the
11 terms of the agreement to you, right?

12 A. Yes, sir.

13 Q. You had ample opportunity to consult your lawyer in
14 connection with this agreement, right?

15 A. Yes.

16 Q. You said on direct examination that you expect and hope to
17 get a 5K1.1 letter, right?

18 A. Part of my cooperation agreement, sir, yes.

19 Q. That's part of your cooperation agreement?

20 A. Yes.

21 Q. Before we get to that in any detail, let's go back to this.
22 This is not a cooperation agreement. You understood that that
23 day, right?

24 A. Yes.

25 Q. How many hours did this session take place, over what

D3BLLEV3

Georgiadis - cross

1 period of time, as best you can recall? This is just thinking
2 back to January of '13. How long did it take?

3 A. Which meeting are you talking about, the one in 2011 or the
4 one in --

5 MR. SHARGEL: Can we have the date up here on this
6 one.

7 THE COURT: He is asking about the date that this
8 agreement was signed but you.

9 THE WITNESS: Oh, OK.

10 THE COURT: How long was that meeting?

11 A. That meeting was pretty much the full morning, full
12 afternoon, all day.

13 Q. So it was, again, like it was back in 2011, you met
14 literally for hours, correct?

15 A. We met for hours, yes.

16 Q. Started at 9:30 in the morning and went until 5:30 in the
17 afternoon or later, right?

18 A. Something like that, yes.

19 Q. What was your understanding of what the government wanted
20 to -- withdrawn. Let's go back to this blow-up of paragraph 1.
21 You have a cooperation agreement. You testified to that on
22 direct examination, right?

23 A. Yes.

24 Q. One that is signed and executed. We'll get to that a short
25 while later. Here it says, "This is not a cooperation

D3BLLEV3

Georgiadis - cross

1 agreement. The client has agreed to provide the government
2 with information and to respond to questions so that the
3 government may evaluate the client's information and responses
4 in making prosecutive decisions." Do you understand what that
5 means?

6 A. I think so.

7 Q. What decisions are they talking about?

8 A. The decisions that they are going to make on me.

9 Q. As to whether you get a cooperation agreement, right?

10 A. Whether they are going to prosecute me.

11 Q. Whether they are going to prosecute you and whether you're
12 going to get a cooperation agreement?

13 A. I didn't know that, no.

14 Q. Did you read paragraph 2 before you signed it?

15 A. I did read it, yes, but -- I guess if that's what you say,
16 sure, yes.

17 Q. "By receiving client's proffer, the government does not
18 agree to make a motion on the client's behalf or enter into a
19 cooperation, plea agreement, immunity, or nonprosecution
20 agreement." Do you see that language?

21 A. Yes.

22 Q. Finally, "The government makes no representation about the
23 likelihood that any such agreement will be reached in
24 connection with this proffer." You understood what that meant,
25 right?

D3BLLEV3

Georgiadis - cross

1 A. Yes.

2 Q. You knew on January 30, 2013, just six weeks or so ago, you
3 knew full well what the government wanted to hear before they
4 gave you a cooperation agreement, isn't that right?

5 A. I knew what they wanted to hear?

6 Q. Yes, knew what they wanted to hear.

7 A. I went in there and spoke the truth, sir.

8 Q. Sir, that's not my question. You knew, did you not,
9 exactly what the government wanted to hear?

10 A. How would I know that?

11 Q. Because they told you.

12 A. When?

13 Q. In that meeting.

14 A. They told me to say things? I'm not understanding.

15 Q. Let me finish the question. On January 30, 2013, they told
16 you what they wanted?

17 A. What did they want?

18 Q. My question to you, sir, is, as you sit here now, do you
19 have any recollection of being told at that meeting on January
20 30, 2013, precisely what the government wanted to hear?

21 A. No. They didn't tell me what they wanted to hear. I was
22 in there to tell my story, to tell the truth.

23 Q. Do you remember that there was a question as to what would
24 happen to you at or about the time that you made this proffer
25 on January 30, 2013?

D3BLLEV3

Georgiadis - cross

1 A. What was the question?

2 Q. Do you remember, sir, asking through your lawyers that you
3 wanted a civil disposition of this case? Do you remember that?

4 A. I don't remember using the "civil disposition" word. I
5 don't even know what that means.

6 Q. Do you remember telling your lawyers that you didn't
7 believe that this was a crime, that you hadn't committed any
8 crime, that maybe it was a little wrong but you didn't commit
9 any crime? Do you remember saying that?

10 A. I told my lawyer that before. In that meeting there was
11 discussions of what I had done and I heard -- in that meeting
12 there was discussions of all my activities, all my fraudulent
13 activities, sir. That meeting is where I understood that I
14 hurt people. I sold stock, I conspired with others to
15 manipulate stock. In that meeting is where I accepted
16 responsibility and I pled guilty, sir.

17 Q. You pled guilty, sir --

18 A. Yes, pled guilty to securities fraud and wire fraud and
19 securities fraud.

20 Q. Excuse me, sir, there is no question before you.

21 THE COURT: You have to wait for a question.

22 THE WITNESS: I'm sorry.

23 Q. Before we get to the point of your pleading guilty, do you
24 remember that your lawyer was told by the government, your
25 lawyer was told by the government and your lawyer conveyed it

D3BLLEV3

Georgiadis - cross

1 to you, that if you wished to cooperate with the government,
2 you would need to plead guilty to conduct related to Cardiac
3 Networks and other market manipulation activity that he
4 disclosed? Do you remember being told that?

5 A. No.

6 Q. As you sit here now, you were never told -- let me put it
7 another way. Do you remember being told that in order to get
8 the benefits of cooperation, in order to get not this proffer
9 agreement but a cooperation agreement, you had to implicate
10 Cardiac? Do you remember that, sir?

11 A. No, sir.

12 Q. Let me show you what's been marked for identification as
13 Defense Exhibit 210, two-one-zero.

14 MR. SHARGEL: May I, Judge?

15 THE COURT: Yes.

16 Q. I direct your attention to the first paragraph of that
17 document. You're free to look anywhere else you would like.
18 But I would ask you to read that to yourself under our rules.
19 When you get done reading that, I'll put a question to you.

20 A. Yes, sir.

21 Q. Is that page 7 of 8 that you are reading?

22 A. Yes.

23 Q. Having read that, sir, having read that paragraph, does
24 that refresh your recollection --

25 A. I'm reading page 6 of 8, not 7 of 8.

D3BLLEV3

Georgiadis - cross

1 Q. Forgive me. Would you go to page 7, top paragraph.

2 A. 7?

3 Q. Yes. Top paragraph.

4 A. You had it on 6. Sorry. The naturalization process, is
5 that the one, the right one?

6 Q. Yes, the naturalization process.

7 A. OK.

8 Q. You were going through the naturalization process all
9 through 2011.

10 A. Do you want me to read it?

11 Q. Yes, please.

12 A. OK.

13 Q. Sir, does that refresh your recollection that you were told
14 several days after the proffer session that if you wished to
15 cooperate with the government, if you wished to cooperate with
16 the government, you would need to plead guilty to criminal
17 conduct related to Cardiac Networks and other market
18 manipulation with Cardiac Networks being specifically named?

19 A. Yes.

20 Q. You were also told back in 2012 -- and I want to make clear
21 that I'm shifting the time frame here just a little bit -- back
22 in 2012 the government informed you through your counsel that
23 they would await the naturalization process. You remember
24 that, don't you?

25 A. No.

D3BLLEV3

Georgiadis - cross

1 Q. You have no recollection of that whatever?

2 A. Is it on this paper somewhere?

3 Q. Yes, it is on that paper somewhere.

4 A. Where?

5 Q. You're free to read through that paper.

6 A. Where is that? What paragraph is it that the government is
7 saying that, sir?

8 Q. The government is saying that on -- give me one moment and
9 I'll tell you.

10 A. That they are waiting for me to become a citizen. I don't
11 see it.

12 Q. Yes. It's the second paragraph on page 6 of 8.

13 A. 6 of 8?

14 Q. Yes. Have you read it?

15 A. Yes, sir.

16 Q. Having read that, does that refresh your recollection, and
17 I'm specifically looking at the middle paragraph, does that
18 refresh your recollection that the government said that they
19 would accede or agree to the proposal that you await your
20 naturalization process but that there were two conditions in
21 place? Does that refresh your recollection?

22 A. They had this conversation with my attorney, I guess. Yes,
23 it says it on here.

24 Q. I'm not asking what it says on there. Wasn't your
25 naturalization something important to you?

D3BLLEV3

Georgiadis - cross

1 A. Something that I was advised by counsel, sir, and I can't
2 go into my attorney-client privilege. I had a counsel that was
3 advising me.

4 Q. I am not asking you about how your counsel felt. I'm
5 asking you whether the naturalization process -- you were not a
6 citizen when this investigation began. Was the naturalization
7 process important to you? Yes or no.

8 A. I didn't know my outcome, but yes, sure.

9 Q. You don't want to be deported, is that a fair statement?

10 A. Yes, fair statement.

11 Q. It's not a question of what your attorneys are thinking.
12 It's what you're thinking. You want to stay in the United
13 States, right?

14 A. I can't go into conversations I had with my attorney, sir.

15 Q. I'm not asking about conversations you had with your
16 attorneys. I'm asking about thoughts that you had in your own
17 head. Can we stay with that? Excuse me, sir, I haven't
18 finished the question. Just for frame of reference, you
19 understand that I'm asking you about the thoughts that were in
20 your head. In 2012 did you want to be deported? Yes or no.

21 A. I wasn't being deported in 2012.

22 THE COURT: Listen, Mr. Georgiadis, you have to answer
23 the question. In 2012 did you want to be deported?

24 A. No, sir.

25 Q. In 2013, right up to this minute on that witness stand, do

D3BLLEV3

Georgiadis - cross

1 you want to stay in the United States?

2 A. Yes, sir.

3 Q. You wouldn't want your naturalization to be revoked, would
4 you?

5 A. No, sir.

6 Q. There came a time in May of 2012 when you, sir, filled out
7 a form, a questionnaire, an application in relation to the
8 naturalization process? Yes or no.

9 A. Yes, sir.

10 Q. You remember that form full well, don't you?

11 A. I filled it out with my attorney, sir, yes.

12 Q. Having reference once again, if you need your recollection
13 refreshed, to that paragraph 6, you were warned by the
14 prosecutors that they would delay the naturalization process,
15 go along with that, but you, sir, could not commit any fraud in
16 connection with that process? You know that, don't you?

17 A. I didn't have conversations with the prosecutors, sir.

18 Q. You knew from conversations, nonprivileged conversations,
19 with your attorneys that they were reporting back from the
20 government saying that the government will accede to your
21 request to delay it but you cannot commit fraud in connection
22 with the process, you cannot defraud the immigration service?
23 Do you remember that?

24 A. I can't go into conversations, sir, I had with my attorney.

25 Q. I'm not asking about conversations you had with your

D3BLLEV3

Georgiadis - cross

1 attorney.

2 A. Sure you are. That's what you said.

3 Q. Were you made aware of the fact -- let me ask you this way.

4 Did you think it was OK with the government for you to commit
5 fraud in connection with your naturalization process?

6 A. How did I commit fraud?

7 Q. I didn't ask you that question. Did you think it was all
8 right with the government if you would go ahead, you had the
9 green light to go ahead and commit fraud in connection with the
10 process?

11 A. I'm not understanding the question, sir.

12 Q. Then let me be more specific.

13 A. OK.

14 Q. Is it not a fact as you sit here now, and I'm not asking
15 for anything having to do with attorneys, isn't it a fact as
16 you sit here now that you, sir, Mr. Georgiadis, committed fraud
17 against the United States of America when you made that
18 application for naturalization?

19 A. No, sir.

20 Q. Then let me show you what's been marked as 3503-31 for
21 identification.

22 MR. SHARGEL: May I approach the witness, your Honor?

23 THE COURT: Yes, you may.

24 Q. I put this in front of you and ask if you recognize it.

25 A. Yes, sir.

D3BLLEV3

Georgiadis - cross

1 Q. What do you recognize it to be?

2 A. My application.

3 Q. Is it signed by you?

4 A. I would assume so, yes.

5 THE COURT: Don't assume. Turn to the signature page.

6 A. Yes, sir.

7 Q. Did you understand that you were signing under penalties of
8 perjury?

9 A. Yes, sir.

10 MR. SHARGEL: May I have it back, your Honor?

11 THE COURT: Yes.

12 Q. I don't want to ask you a question with my back to you.

13 I'll turn around and ask you this question. You told us this
14 morning that in December, I think it was December 11, 2011 you,
15 in a conversation, not your attorneys, you yourself in
16 conversation with people that are sitting at this table, that
17 you lied, right?

18 A. Yes.

19 Q. You said that you knew that you were advised that lying to
20 an agent was a crime, right?

21 A. Yes.

22 Q. You said you knew at the time that you were involved in
23 manipulating stocks, you said you knew that, right?

24 A. At the time of?

25 Q. At the time that you were filling out this application.

D3BLLEV3

Georgiadis - cross

1 A. This naturalization application?

2 Q. Yes, in May of 2012. You knew it?

3 A. You know, look --

4 Q. Excuse me, sir. Can you answer the question?

5 A. I knew I had done wrong, sir.

6 MR. SHARGEL: Your Honor, this is just a speech
7 without a question.

8 THE COURT: You have to listen to the question and
9 answer the question. Try again, Mr. Shargel.

10 MR. SHARGEL: Yes, sir.

11 Q. Do you remember, sir, and you can turn to the page, do you
12 remember a question under "moral character"? Do you see that,
13 "moral character"?

14 A. There's a lot of things here. Which page?

15 Q. You know what moral character is, right?

16 A. I have an idea, yes.

17 Q. 15.

18 MR. SHARGEL: I think I have to offer this in evidence
19 first. I offer it into evidence 3503-31.

20 MR. MASTER: No objection.

21 THE COURT: 3503-31 is received in evidence.

22 (Defendant's Exhibit 3503-31 received in evidence)

23 Q. I don't need to publish, because there is only one question
24 I'm going to ask you about, question number 15. "Have you ever
25 committed a crime or offense for which you were not arrested?"

D3BLLEV3

Georgiadis - cross

1 A. No.

2 Q. I'll read it once more.

3 A. You don't have to. I understood it.

4 Q. You understood it?

5 A. Yes.

6 Q. Your answer was "no."

7 A. Yes.

8 Q. You knew that day when you filled out this application that
9 you lied to the SEC, as you told us this morning? Yes or no.

10 A. Yes.

11 Q. You knew that in December of 2011, months before you filled
12 out this application, that you lied to these agents? Yes or
13 no.

14 A. Yes, but I tried to -- yes.

15 Q. You knew when you filled out this application on May 24,
16 2011, that you had lied about manipulation of stock back in
17 December. You knew that, didn't you?

18 A. Say that again.

19 Q. You knew when you filled out this application on May 24,
20 2012, that you had committed federal offenses relating to
21 manipulation of stock. You knew that, didn't you?

22 A. No, sir, I didn't.

23 Q. You answered it 'no.' Even if you were confused about
24 manipulation of stock, you answered it "no" despite the fact
25 that you had lied to these authorities at the table and to the

D3BLLEV3

Georgiadis - cross

1 Securities and Exchange Commission. You knew that, didn't you?

2 A. Yes.

3 Q. You have to answer orally.

4 A. Yes. Yes, sir.

5 Q. As you sit here now, you don't want this naturalization and
6 citizenship to be revoked, do you?

7 A. No, sir.

8 Q. You understand as you sit here now that it can be revoked
9 for false information on a application for citizenship. You
10 know that, don't you?

11 A. Yes, sir.

12 Q. Did anyone assure you that you wouldn't be deported and
13 have your citizenship papers ripped up because of your
14 cooperation here?

15 A. Say that again.

16 THE COURT: I didn't understand the question. Do you
17 want to try again?

18 MR. SHARGEL: Sure.

19 Q. Did anyone from the government assure you, assure you, that
20 your citizenship would not be ripped up, would not be revoked,
21 and you would not be deported?

22 A. No, sir.

23 Q. As you sit here now, sir, as you sit here now, one of the
24 things hanging over your head like a Damoclean sword is your
25 citizenship situation, right?

D3BLLEV3

Georgiadis - cross

1 A. That and 25 years.

2 Q. We're going to get to that, too. That and 25 years in
3 prison, right?

4 A. Yes, sir.

5 Q. You understand, and you were asked questions about this on
6 direct examination, about the cooperation agreement that was
7 reached on February 14, 2013, you understand that, right?

8 A. Asked questions by whom?

9 Q. I'm sorry?

10 A. Direct questions by whom?

11 Q. When I say direct questions, that's lawyer's talk. I'm
12 sorry. You were asked questions by this gentleman over here,
13 Howard Master, right?

14 A. Yes, sir.

15 MR. SHARGEL: Are you all right?

16 MR. MASTER: Yes.

17 THE COURT: It was nice to inquire.

18 MR. SHARGEL: I'm sorry, Judge, I didn't hear what you
19 said.

20 THE COURT: I said you're nice to inquire.

21 Q. You were asked by Mr. Master about what you understood this
22 agreement to be, right?

23 A. Yes.

24 Q. When I say "this," -- well, let me ask you a question.

25 When Mr. Master asked you these questions, you understood the

D3BLLEV3

Georgiadis - cross

1 agreement that you entered into, right? Yes?

2 A. Can I see the agreement? What agreement are you referring
3 to? There's a lot of agreements here.

4 Q. I show you what's marked as 3503-13. Look at any page you
5 wish. It's not long.

6 A. The cooperation agreement?

7 Q. Yes, that's your cooperation agreement?

8 A. Yes.

9 Q. You were asked by Mr. Master about whether you received any
10 promises by the government. Do you remember those questions?

11 A. Yes.

12 Q. The promises by the government were in terms of this 5K1.1
13 letter, right?

14 A. Yes.

15 Q. If you were a successful cooperator, then you would receive
16 a 5K1.1 letter, right?

17 A. Yes.

18 Q. You received another benefit, didn't you?

19 A. What's that?

20 Q. I'm asking, can you think of any other benefit you
21 received?

22 A. No.

23 Q. Did you receive assurance -- is it not a fact that you,
24 sir, were promised by the government that you would not be
25 prosecuted for the false statements that you confessed to

D3BLLEV3

Georgiadis - cross

1 making on that long day out in California in December of 2011?

2 A. I don't remember hearing promises like that. Do you have
3 anything to refresh my recollection?

4 Q. Yes, the writing that is right in your lap. Do you want to
5 take a look at page 2. There is a yellow Post-it. You could
6 read it to yourself and then I'll put a question.

7 A. Which paragraph is it?

8 THE COURT: The one with the yellow Post-it right
9 alongside it.

10 Q. I think there may be a yellow Post-it and yellow
11 highlighter.

12 MR. SHARGEL: May I approach for a second? I don't
13 want to be on the wrong paragraph.

14 Q. Page 2 going on to page 3, that paragraph?

15 THE COURT: The bottom of page 2 to the top of page 3?

16 MR. SHARGEL: Yes, sir.

17 THE COURT: OK.

18 A. Yes, this was part of my agreement.

19 Q. That was part of the agreement?

20 A. Yes.

21 Q. Having read it, does that refresh your recollection that
22 you get protection against any prosecution in connection with
23 the statements that you claim were false in December of 2011?

24 A. I thought it all fell all together.

25 Q. You thought it all fell together?

D3BLLEV3

Georgiadis - cross

1 A. Right.

2 Q. Now that you have had an opportunity to refresh your
3 recollection, it wasn't all fallen together, it was a separate
4 promise that was made that you wouldn't be prosecuted for
5 perjury, false statement, obstruction of justice in connection
6 with your all-day marathon session with the government on
7 December 11, 2011, to December 16th, yes?

8 A. Yes, sir.

9 Q. It does refresh your recollection. You received that as
10 part of the bargain, right?

11 A. Yes, sir.

12 Q. In connection with lying to any regulatory authority --

13 THE COURT: To who?

14 Q. A regulatory authority.

15 A. Yes.

16 Q. You understand that the SEC is a regulatory authority,
17 right?

18 A. Yes.

19 Q. You're not going to be prosecuted for that either, right?

20 A. No.

21 Q. I said right. You're not going to be prosecuted for that?

22 A. I was wrong. No.

23 Q. You got me confused.

24 A. I was wrong in lying, sir. But no, I'm not going to be
25 prosecuted that I know.

D3BLLEV3

Georgiadis - cross

1 Q. You were wrong in lying?

2 A. Right.

3 Q. But you're not going to be prosecuted?

4 A. Not that I know of, no.

5 Q. Did you ever lie to any other regulatory authority?

6 A. What do you mean by did I rely? Did I rely or lie?

7 Q. Lie, L-I-E.

8 A. No, sir.

9 Q. Did you ever get interviewed by the NASD?

10 A. No.

11 Q. Did not?

12 A. No, sir.

13 Q. So the regulatory authority that is part of your promises
14 is only the SEC?

15 A. Yes.

16 Q. In connection with this 5K1 letter, were the contours or
17 details explained to you? Not by your lawyers. I have an
18 application about that. Not by your lawyers, but by the
19 government lawyer, the prosecutor, the Assistant United States
20 Attorney.

21 A. I'm sure he knows. There was a lot explained to me in the
22 5K1 letter. The way I understand it, it's all of my fraudulent
23 activity, my wrongdoing, and all my good conduct.

24 Q. This is important to you because this is the vehicle to get
25 out of doing 25 years in prison, right?

D3BLLEV3

Georgiadis - cross

1 A. Yes, sir.

2 Q. As you said on direct examination, you could get as low as
3 no jail or probation, right, in return for your cooperation?

4 A. Could.

5 Q. Certainly, that's what you want, right?

6 A. Yes.

7 Q. You understood, did you not, that you can't get a 5K1
8 letter unless you provide substantial assistance to the
9 investigation or prosecution of another person, right?

10 A. Yes.

11 Q. In other words, if you go in and just say what you did
12 without implicating another person, there is no 5K1 letter,
13 right?

14 A. I was told in coming in and telling the truth.

15 Q. I got that. My question to you is, you understand the
16 5K1.1 letter, 5K1.1 of the federal sentencing guidelines, you
17 don't get any benefit or even a chance under that provision
18 unless you provide, quote, substantial assistance to the
19 investigation or prosecution of another person, not you, right?

20 A. I didn't know that. I just thought that telling the truth
21 is --

22 Q. That would do it?

23 A. Yes, sir.

24 Q. You went in and a lot of things said in December of 2011
25 were true, right? You weren't lying all day from 9:30 to 5:30,

D3BLLEV3

Georgiadis - cross

1 were you?

2 A. No.

3 Q. Do you remember saying during that session in 2011 that you
4 purchased 500,000 shares of Cardiac at \$2.25 or \$1,125,000 from
5 David Levy?

6 A. Yes.

7 Q. You said you had a contract?

8 A. Yes.

9 Q. Did you produce the contract?

10 A. No, sir.

11 Q. Did you have the contract?

12 A. No, sir?

13 Q. But you were interested -- you said, what, you got kicked
14 out of the company, out of Cardiac?

15 A. No, that was Banneker.

16 Q. Banneker, you got kicked out of the company?

17 A. Yes.

18 Q. That didn't help your relationship with David Levy, you
19 being kicked out of the company?

20 A. I didn't have enough money supposedly to fund the company.
21 That's why I was being thrown out.

22 Q. That's why you were being thrown out?

23 A. Yes.

24 Q. When you were being thrown out of Banneker, was that at or
25 about the same time when you weren't talking to David Levy?

D3BLLEV3

Georgiadis - cross

1 A. I don't remember.

2 Q. I'm sorry?

3 A. I don't remember.

4 Q. You said in December of 2011 that you were trying to get
5 rid of David Levy, right?

6 A. Get rid of him?

7 Q. Buy him out of the company, buy his shares, by his shares
8 of Cardiac.

9 A. Yes, I wasn't being totally truthful, sir.

10 Q. What do you mean you weren't being totally truthful?

11 A. I wasn't being totally truthful in that meeting, sir.

12 Q. What you were doing was you were taking some things that
13 were true and some things that were lies and mixing them
14 together? Yes or no.

15 A. No.

16 Q. You said you weren't being totally truthful.

17 A. I made some misstatements in that meeting, sir, yes, I did.

18 Q. Did the government ever ask you to identify in writing
19 which were your misstatements and which weren't your
20 misstatements? Did they ever do that?

21 A. I believe so, yes.

22 Q. When did you do that, sir?

23 A. I believe that was done at my second meeting when I sat
24 down with them.

25 Q. You were writing and saying what was true and what was not

D3BLLEV3

Georgiadis - cross

1 in your own hand?

2 A. No.

3 Q. You never did that, did you?

4 A. No, not me doing that.

5 MR. SHARGEL: Your Honor, at this time -- this may be
6 something you reserve on -- I'm going to offer in evidence
7 under United States v. GAF Corporation and U.S. v. McKeon
8 Defense Exhibit A210.

9 THE COURT: What is A210?

10 MR. SHARGEL: May I hand it up?

11 THE COURT: Yes.

12 MR. SHARGEL: This is a Giglio disclosure.

13 May I have a moment, your Honor?

14 THE COURT: I'll reserve on it.

15 MR. SHARGEL: Very well, your Honor.

16 May I have just one moment, please.

17 Q. Here is the question I have for you. Toward the end of the
18 direct examination, you were asked questions about a Porsche
19 and Zev Helfer, right?

20 A. Yes, sir.

21 Q. You told us that it was your wife's car but for family
22 reasons it wasn't a suitable car for you, correct?

23 A. It wasn't suitable for my wife.

24 Q. Your wife and your child, right?

25 A. And my child, yes.

D3BLLEV3

Georgiadis - cross

1 Q. You told us that just by coincidence Zev Helfer was looking
2 for a car, it all worked out, he finished the lease, right?

3 A. Yes.

4 Q. No problems, right?

5 A. No.

6 Q. I'm sorry, I can't hear you. You have to speak up.

7 A. No.

8 Q. Let me show you what's been marked for identification --

9 MR. SHARGEL: Does the government have a copy of this?

10 Q. -- as Defense Exhibit A169. I ask you to take a look at
11 that and tell me if you recognize it. Do you recognize it?

12 A. Yes. It's an email from me.

13 Q. On the subject of the Porsche, the same Porsche you
14 testified about on direct examination, right?

15 A. Yes.

16 MR. SHARGEL: I offer it into evidence.

17 MR. MASTER: No objection.

18 THE COURT: A169 is in evidence.

19 (Defendant's Exhibit A169 received in evidence)

20 Q. This will be my last area here. "First let me start off by
21 saying sorry for the loss. Now I want to get something off my
22 chest. As you know, I let you use my car when you were in a
23 desperate situation." Zev was kind of broke, wasn't he?

24 A. He didn't have good credit.

25 Q. He had bad credit. That is the opposite of good credit,

D3BLLEV3

Georgiadis - cross

1 right?

2 A. He didn't have good credit to get a vehicle.

3 Q. Any vehicle, let alone a Porsche?

4 A. I don't think he wanted a Porsche. He was looking for a 10
5 or \$15,000 car.

6 Q. You testified to this morning, the Porsche story I'll say.
7 It's truthful, right, truthful testimony, an accommodation?

8 A. Yes.

9 Q. "As you know, a desperate situation. I won't go any
10 further on that. Today I'm sitting here with a car payment due
11 and 10 days late, late for the second time. I have made two
12 payments on the car that you and your family are driving and
13 never reimbursed. You didn't even have the common courtesy to
14 call or email that you couldn't make the payment. You have
15 ruined my wife's credit with Porsche. I didn't want to give
16 the car in the first place."

17 Can I ask you the question? I thought you were glad
18 to give him a car in the first place. The answer to that?

19 THE COURT: Is that a question that you want an answer
20 to?

21 MR. SHARGEL: Yes, it was a question.

22 Q. Were you glad to give him the car in the first place?

23 A. I was his last resort, sir.

24 Q. Where was I? "You didn't even have the common courtesy to
25 call or email that you couldn't make the payment. You have

D3BLLEV3

Georgiadis - cross

1 ruined my wife's credit with Porsche. I didn't want to give
2 you the car in the first place, for reasons being that here we
3 are and I'm getting the shaft for helping out a friend/business
4 associate.

5 "My wife is furious with me and I can't blame her. I
6 have entered you into my life, my house, and most important to
7 my family, and you treated me now with disrespect. I went as
8 far as getting you an attorney knowing you don't have the money
9 to retain one. I spent 1500 upon delivering you the car to
10 make sure that you were happy and safe.

11 "You have," all caps, "no idea how much you hurt me by
12 making me look like I made a wrong decision in front of my
13 wife," exclamation marks four times. "Next week I will fly to
14 San Francisco to pick up the car. I will make this month's
15 payment, so now there are 2 payments that's owed, a half a
16 year's payments and 20,000 excess mileage that I will be
17 charged.

18 "If you want to reimburse me, fine. If not, I hope
19 one day this doesn't happen to you. This will not make or
20 break me. I will live through it as always. But again shame
21 on me for trusting you."

22 What is your opinion of Zev Helfer's character for
23 integrity and honesty?

24 A. I think he is an honorable man.

25 Q. Honorable man as expressed in this letter. No further

D3BLLEV3

Georgiadis - cross

1 questions.

2 THE COURT: Ladies and gentlemen, we will take our
3 afternoon recess now.

4 (Continued on next page)

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D3BLLEV3

Georgiadis - cross

1 (Jury not present, witness not present)

2 THE COURT: Yes, Mr. Shargel?

3 MR. SHARGEL: Your Honor, very quickly. I don't want
4 to cut into your break. There are two issues before the Court.
5 I hope that they can be resolved before he leaves the stand.
6 One is this lawyer-client privilege. His lawyers were on his
7 behalf intermediaries between the government and him.
8 Obviously, there is authorization or waiver because the lawyers
9 were sharing with the government.

10 THE COURT: That's the way it seems to me, Mr. Master.

11 MR. MASTER: Your Honor, his defense counsel was
12 providing factual information to the government. We certainly
13 permitted Mr. Shargel -- we produced the notes of those
14 attorney proffers to Mr. Shargel as 3500 for Mr. Georgiadis.
15 He is welcome to inquire as to those subject matters. I don't
16 think that that is a wholesale waiver of any attorney-client
17 privilege conversations that Mr. Georgiadis might have had with
18 his attorney seeking legal advice as to how the case should be
19 resolved. I disagree.

20 MR. SHARGEL: It is not only a matter of --

21 THE COURT: You haven't asked him a question about it.
22 You said attorney-client privilege and went on to something
23 else.

24 MR. SHARGEL: Yes, because I respected that until I
25 had a ruling from you.

D3BLLEV3

Georgiadis - cross

1 THE COURT: You didn't ask me for a ruling until right
2 now.

3 MR. SHARGEL: I asked for a ruling during his
4 examination. You said you would reserve on that.

5 MR. MASTER: Your Honor, I don't think that that is a
6 blanket waiver of attorney-client privilege.

7 MR. SHARGEL: I think I can make this short.

8 THE COURT: Yes. What do you want?

9 MR. SHARGEL: I want to put the Brady disclosure in
10 because he is hiding behind the attorney-client privilege when
11 clearly the lawyers are bringing information back to him on
12 what the government is saying. This is a statement of a party
13 opponent, very narrow area, where it's something that was
14 submitted in connection with the litigation. United States v.
15 GAF. In other words, usually, the government is not a party
16 within admissions of a party opponent. But there are narrow
17 exceptions found in United States v. GAF Corporation, and on
18 the flip side where the lawyer Michael Kennedy was disqualified
19 and his opening statement was admitted into evidence because it
20 was contrary to an earlier opening statement that he made in
21 United States v. McKeon.

22 MR. MASTER: Your Honor, with respect to that, Mr.
23 Shargel didn't let me know -- well, I understand why he is
24 making the application. I'm not familiar with the legal
25 standard.

D3BLLEV3

Georgiadis - cross

1 THE COURT: I'm not, either. If you were having a
2 conversation with Mr. Georgiadis's lawyer and he says this is
3 what Fotis wants and you tell him no, he can't have it, and he
4 goes back and repeats the same thing to Mr. Georgiadis, where
5 is the attorney-client privilege?

6 The privilege, as I understand it, comes from the
7 client imparting knowledge and information on which the lawyer
8 bases his advice. It doesn't seem to be applicable to the
9 government telling Mr. Georgiadis's attorney what the
10 consequences are. Do you agree with that?

11 MR. MASTER: Yes, that is certainly correct.

12 THE COURT: What more do you want than that?

13 MR. SHARGEL: I don't want to go further. I just want
14 to introduce this, which essentially memorializes -- I'm
15 confident that it's accurate -- what the government is telling
16 the lawyer that is being conveyed to him. He's sitting there
17 saying, I don't know, I don't know.

18 MR. MASTER: I don't know what is ultimately conveyed
19 to Mr. Georgiadis, but I do know that --

20 THE COURT: You do know what you conveyed to his
21 attorney.

22 MR. MASTER: Absolutely.

23 THE COURT: And you're not claiming privilege on it,
24 you can't claim privilege on it.

25 MR. MASTER: Absolutely no.

D3BLLEV3

Georgiadis - cross

1 MR. SHARGEL: I am offering into evidence Defendant's
2 Exhibit A210.

3 MR. MASTER: Your Honor, with respect to that, I would
4 like an opportunity to make a brief review of the case and
5 consult with my appeals unit.

6 THE COURT: You don't need him to do that.

7 MR. SHARGEL: No, that's fine. I can publish this at
8 a later time.

9 MR. MASTER: Absolutely. In the event we don't oppose
10 or your Honor rules it is admissible, we could publish it at
11 any point and would be able to deal with it.

12 THE COURT: Mr. Srebnick, you wanted to raise
13 something before. I didn't want to cut you off.

14 MR. SREBNICK: It doesn't deal with Mr. Georgiadis.
15 It deals with the tape. We can take it up after Mr.
16 Georgiadis, at your pleasure.

17 THE COURT: I don't think we will get through with Mr.
18 Georgiadis today.

19 MR. MASTER: I think we will.

20 THE COURT: I stand corrected.

21 MR. SHARGEL: I'm done and the other defendant is
22 going.

23 THE COURT: You're going to be brief, right?

24 MR. SREBNICK: Briefer than Mr. Shargel. I think I
25 will be very brief.

D3BLLEV3

Georgiadis - cross

1 THE COURT: Do you want to take up the issue? I don't
2 want to foreclose you.

3 MR. SREBNICK: Sure. Judge, these relate to the
4 tapes, what we call the wiretaps. They are marked -- they are,
5 I believe, on your lectern; I believe it was left for you --
6 government exhibits in the 700 series. In particular, the one
7 I would like the Court to look at is 700-5-T. It's a
8 transcript.

9 THE COURT: Mr. Srebnick, I have Defendant's Exhibits
10 90, 91, and 92 here.

11 MS. COHEN: We are passing up a copy, your Honor.

12 THE COURT: Go ahead.

13 MR. SREBNICK: What that relates to are tape
14 recordings of Donna Levy's voice with some other individuals.
15 The 700 series, the first two, which is 700-1 and 700-2, we
16 believe address the EWPI events, that's the Emerging World
17 Pharma. Number 3, number 4, number 5, meaning 700-3, -4, -5,
18 appear not to deal with EWPI; we understand the government to
19 take the position it deals with a different stock, MCGI. As
20 well as number 6, which makes a passing reference to EWPI but
21 also deals with MCGI.

22 Could I ask the Court to turn its attention in
23 particular to 700-5, and in particular the bottom of page 2.

24 THE COURT: Page 2 of 5?

25 MR. SREBNICK: Yes, please.

D3BLLEV3

Georgiadis - cross

1 THE COURT: Donna joins the conversation with sales.

2 MR. SREBNICK: Yes. Donna Levy is speaking to Phoebe.
3 Phoebe says, "What's going on?"

4 Levy says, "Not too much. I'm trying to explain to
5 him there's a particular situation that I cannot say, because
6 if I told you this information, it would be true inside
7 information."

8 Then the dog is barking.

9 "There's something that's going to happen that is
10 going to be monstrous after about three or four days. I've
11 tried to explain it to him the best I could without saying it
12 because I could not say it."

13 Next page.

14 She then says, "So we could go to jail for this, you
15 know what I'm saying?"

16 "I gotcha, I gotcha, I gotcha."

17 Then Donna says, "It's not like normal everyday stuff
18 that happens with these where I could say, you know, let's
19 write about this company and that company. It's not like that.
20 It's something that's going to be wild."

21 Those statements apparently, according to the
22 government, deal with MCGI, Donna telling this person she can't
23 disclose certain information because it would be inside, it
24 would subject her to jail, etc. I am objecting for two
25 reasons.

D3BLLEV5

1 THE COURT: You're objecting to that portion you just
2 read?

3 MR. SREBNICK: Anything about MCGI. But I'm
4 highlighting that in particular because I think it's the one
5 that would confuse the jury, this business about inside
6 information, Donna saying she can't disclose it, etc.

7 The government had already told us by letter that it
8 would not be proceeding with the MCGI events. In a letter
9 dated February 20, 2013, the date before we had our final
10 pretrial conference, the government said in an effort to
11 streamline the trial, the government no longer seeks to
12 introduce proof of the MCGI stock fraud as substantive evidence
13 of the conspiracy charged in Count One of the indictment. It
14 then goes on in the next page, the government, specifically
15 having previously identified the wiretaps as being the evidence
16 for MCGI.

17 The Court may recall the next day during our pretrial
18 conference the government was abandoning MCGI. It seems to now
19 be reappearing. I object.

20 THE COURT: OK. Mr. Master.

21 MR. MASTER: Your Honor, this has been known to the
22 defense for some time that we would be seeking to introduce
23 these tapes. This tape at issue that makes no specific
24 reference to MCGI. It's evidence of Donna Levy's means and
25 methods for carrying out this conspiracy. We are not trying to

D3BLLEV5

1 offer any independent evidence about the operation of the MCGI
2 scheme. It simply is evidence that she's dealing with and, as
3 Mr. Georgiadis described, she leaks information to other
4 promoters to try to get them to go out on stock in order to try
5 to increase the impact of all the promotions that she's
6 involved in.

7 We're not going to be referencing MCGI in our
8 summation. This is just simply how she talks about stock and
9 how she talks about her promotions. It's very straightforward.

10 MR. SREBNICK: One last point. The date of the
11 conversation, May 7, 2010, which is after Cardiac, after
12 Banneker, and after EWPI, so it's post events.

13 MR. MASTER: It's during the charged period of the
14 conspiracy.

15 THE COURT: The objection is overruled.

16 See you in about five minutes.

17 (Recess)

18 THE COURT: Marlon, call in the jury.

19 MR. SREBNICK: Judge, while the jury is coming in,
20 given the Court's ruling on the tapes issue that you just ruled
21 on, we have no objection to the authenticity of the tapes.
22 We're going to sign a stipulation. I want the record to be
23 clear we're not waiving our object by stipulating.

24 THE COURT: You're not waiving your objection.

25 MR. SREBNICK: Understood.

D3BLLEV5

1 THE COURT: Understood, sir, yes.

2 MR. SHARGEL: Judge, did I misinterpret something you
3 said earlier? I asked again for the instruction. It wasn't
4 like a renewal of the application. I thought what you said to
5 me after the lunch is you were going to give it. Was I wrong?

6 When the witness is done.

7 THE COURT: When the witness is done.

8 MR. SHARGEL: Thank you.

9 THE COURT: Did you want it -- I didn't know. I
10 thought it would be appropriate at the end of the testimony.

11 MR. SHARGEL: That's fine. That's fine, Judge. Thank
12 you.

13 (Witness present)

14 (Continued on next page)

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D3BLLEV5

(Jury present)

THE COURT: Please be seated.

Mr. Srebnick, any time you're ready.

MR. SREBNICK: Thank you, Judge. May it please the Court, and good afternoon, everybody.

CROSS-EXAMINATION

BY MR. SREBNICK:

Q. Mr. Georgiadis, I'd like to ask you a few questions about the meeting you had in Los Angeles in December of 2011 with representatives of the government. You know which meeting I'm referring to?

A. Yes.

Q. During that meeting you were discussing with the government several stock investments that you were involved in including a company called ikarma?

A. Yes.

Q. You also discussed with the government your involvement in another stock deal involving DeGreko, that's the pizza company that your family had an interest in that was going public?

A. Yes.

Q. During that meeting in December of 2011 in California, did you discuss with the government your involvement in a company called Empire?

A. Yes -- no. In 2011?

Q. That's my question. In 2011, in California, did you tell

D3BLLEV5

Georgiadis - cross

1 the government about your involvement with the stock deal that
2 we called Empire?

3 A. No, no, I didn't, no.

4 Q. During that meeting in December of 2011 in California, did
5 there come a time that the government terminated the meeting?

6 A. At the end of the meeting, yes.

7 Q. The meeting ended in a way that communicated to you that
8 the government was not interested in hearing from you any
9 further?

10 A. I don't know about not hearing me any further but they
11 weren't happy; that's for sure.

12 Q. The government communicated to you that the information you
13 were giving to the government was not acceptable to the
14 government, correct?

15 A. I don't know about if it wasn't acceptable, but it didn't
16 go well. I wasn't truthful at the meeting, no.

17 Q. The government ended the meeting and that's when you went
18 home and you had this event with your father and you decided
19 you were going to say something different to the government in
20 the future, correct?

21 A. Yes.

22 Q. Now, when you eventually negotiated a plea agreement in
23 your favor with the government, isn't it true, sir, that the
24 plea agreement guarantees that you will not be prosecuted for
25 any criminal activity related to the stock that we've called

D3BLLEV5

Georgiadis - cross

1 ikarma, correct?

2 A. I thought I was accepting responsibility for everything,
3 but the charge is on Cardiac, yes.

4 Q. So to make it clear I'm going to repeat the question.

5 The plea agreement that you negotiated with the
6 government, and I believe it is in evidence as exhibit -- it's
7 not in evidence yet. One moment.

8 THE COURT: 3503-13.

9 Q. It's not in evidence but I think you saw it, 3503-13. You
10 understand your agreement with the government means that you
11 will not be prosecuted for any criminal activity in connection
12 with the stock deal ikarma, correct?

13 A. Yes.

14 Q. The plea agreement you negotiated with the government
15 roughly a month ago also protects you from being prosecuted for
16 any criminal activity with respect to the stock deal we've
17 called DeGreko, correct?

18 A. Yes.

19 Q. In addition, even though you didn't disclose to the
20 government in December of 2011 anything about Empire, you were
21 able to include in the protection you're receiving from the
22 plea agreement that you will not be prosecuted for any criminal
23 activity related to your involvement with the stock deal known
24 as Empire, correct?

25 A. Yes.

D3BLLEV5

Georgiadis - cross

1 Q. These three companies -- DeGreko, ikarma, Empire -- were
2 stock deals in which Donna and David Levy had no involvement,
3 correct?

4 A. Yes.

5 Q. You were facing exposure from the government for three
6 stock deals for which the Levys had no exposure and you've been
7 able to avoid any criminal exposure for those three deals by
8 reaching what Mr. Shargel told you about and you talked about,
9 a substantial assistance agreement, correct?

10 A. The cooperation agreement?

11 Q. Yes.

12 A. Yes.

13 Q. Now, all three of those companies -- Empire, ikarma and
14 DeGreko -- were the subject of inquiries by the regulators
15 around the years that you were involved with those companies,
16 correct?

17 A. I believe ikarma and Empire was, yes.

18 Q. Now, in exchange for your cooperation agreement, you are
19 obligated, if you want to get a 5K1 letter, you are obligated
20 to provide substantial assistance in the prosecution and
21 investigation of another person, correct?

22 A. Obligated to testify truthfully, provide truthful
23 information about my criminal conduct, fraudulent conduct, and
24 any others that I know of, attend meetings, and present
25 documentation when I'm called upon.

D3BLLEV5

Georgiadis - cross

1 Q. Are you familiar with the provisions of 5K1 under the
2 sentencing guidelines, have you studied them, have you reviewed
3 them either with your lawyer or with the prosecutors, have you
4 ever looked at them?

5 A. No, I haven't.

6 Q. Isn't it true, sir, that 5K1 requires that you provide
7 substantial assistance in the investigation or prosecution of
8 another person, isn't that what is required under 5K1, or do
9 you simply not know because you've never looked at the
10 provision?

11 A. I know how I was explained to it in terms that I
12 understand. I don't know what you mean by substantial. I
13 don't understand.

14 Q. Do you know that it's up to the government and the
15 government alone to decide whether you qualify for such a
16 letter, only the government can file that letter for you,
17 right?

18 A. Yes.

19 Q. So if you want to obtain the benefit of that letter,
20 whatever it might be, you're counting on the government to go
21 to bat for you; fair statement?

22 A. If I tell the truth, yeah. If I testify --

23 Q. You're counting on the government, correct?

24 A. To write the letter?

25 Q. Yes.

D3BLLEV5

Georgiadis - cross

1 A. Yes. They're the ones that write the letter, yes.

2 Q. And they have the right not to write the letter if they
3 don't want to, correct?

4 A. If I don't hold my end of the bargain, yes.

5 Q. They have the total discretion, the government, in deciding
6 whether to write it or not to write it, correct?

7 A. Like I said, if I go against the agreement, yes, they
8 can -- they will not write it and they don't have to.

9 Q. Now --

10 A. As far as I know.

11 Q. You told the ladies and gentlemen of the jury that the
12 sentencing range to which you're exposed could result in a
13 sentence as high as 25 years in prison, correct?

14 A. Yes.

15 Q. And do you know that parole has been abolished?

16 A. What does that mean?

17 Q. You know there's no parole, if you are sentenced to 25
18 years, there's no such thing as parole anymore, you'll do just
19 about all of 25 years, maybe a little bit of good time credit,
20 correct?

21 A. I didn't know that, no.

22 Q. Do you recall being informed that parole is abolished at
23 the time you entered your plea?

24 A. I don't remember, no.

25 Q. OK. If I could just have a moment.

D3BLLEV5

Georgiadis - cross

1 You certainly understood that a sentence of 25 years
2 would be a life altering event for you?

3 A. Sure, yes.

4 Q. Married, three children, it's an awfully powerful threat,
5 isn't it?

6 A. Yes.

7 Q. And it motivates somebody, doesn't it, having that hanging
8 over your head, it motivates you to please those who can make a
9 difference in the outcome of that situation, right?

10 A. Motivates me to tell the truth.

11 Q. It motivates you to get a substantial assistance letter,
12 doesn't it?

13 A. Motivates me to tell the truth, sir. Regardless of the
14 outcome of this trial, as long as I tell the truth, I get the
15 letter.

16 Q. The government -- well, we'll get to that in a moment.

17 Let me ask you this, Mr. Georgiadis: When you went
18 into the meeting in December of 2011 in California, I thought I
19 understood you to say that you did not believe you had
20 committed any crime in connection with the stock deals; is that
21 a fair statement?

22 A. Yeah.

23 Q. Sorry?

24 A. Yes.

25 Q. And so at least as of December of 2011, it was your

D3BLLEV5

Georgiadis - cross

1 understanding that you had complied with the law with regard to
2 the stock deals, correct?

3 A. Well, I know there was wrongdoing, but I didn't think it
4 was criminal, no.

5 Q. Someone had to convince you that what you did was criminal
6 in order to get you to change your story?

7 A. Sat down with the government and my attorney and I can't
8 get into conversations me and my attorney had.

9 Q. The government convinced you that what you did was
10 criminal?

11 A. The government told me --

12 Q. I'm not asking you what they told you. Did the government
13 convince you that what you did was criminal?

14 A. No.

15 Q. Did what the government tell your lawyer who then told you
16 that what you did was criminal convince you?

17 A. My lawyer sat me down and explained things to me. I made
18 my own decision.

19 Q. Mr. Georgiadis, did you ask your lawyer, your new lawyer in
20 December of 2011 to delay --

21 A. Of 2012?

22 Q. I'm sorry.

23 A. My old lawyer was in 2011.

24 Q. When did you retain the new lawyer who ultimately
25 negotiated the deal for you?

D3BLLEV5

Georgiadis - cross

1 A. I believe right in the beginning of 2012, like right there,
2 OK, so Ronald Nessum.

3 Q. Mr. Ronald Nessum was the new lawyer who ultimately
4 negotiated the deal on your behalf, correct?

5 A. He was the one that was talking with the government, yes.

6 Q. So that we get the time line, you retain him in
7 approximately January of 2012, correct?

8 A. Yes.

9 Q. But you don't actually meet with the government yourself,
10 face to face, for yet another year until January of 2013,
11 correct?

12 A. I was cooperating through my attorney, sir.

13 THE COURT: Answer his question. His question was in
14 2012 -- Mr. Srebnick, correct me if I'm wrong -- you didn't
15 meet with the government?

16 THE WITNESS: In 2012, no, sir, I didn't, no.

17 Q. So the first time you meet with the government again is
18 January of 2013, a year after you hired the lawyer, correct?

19 A. Yes, sir.

20 Q. And then you end up entering your guilty plea or resolving
21 your case in February of 2013, correct?

22 A. Yes, sir.

23 Q. Now, in January of 2013, had you already begun the process
24 of applying for citizenship?

25 A. Of January 2013?

D3BLLEV5

Georgiadis - cross

1 Q. Excuse me, January of 2012, forgive me.

2 In January of 2012, had you already begun the
3 application process for citizenship?

4 A. I retained counsel and we had to go through the process
5 because you have to get, you know, FBI fingerprints. They take
6 like 45 days. And then you have to, you know, records and so
7 forth. So it's a process. So I engaged in the process shortly
8 after retaining my counsel.

9 Q. Who did you retain first, your criminal counsel,
10 Mr. Nessum, or your immigration counsel?

11 A. My criminal counsel, Mr. Nessum.

12 Q. So you had not yet even begun the immigration process when
13 you learned that the government was proposing to prosecute you,
14 correct?

15 A. There was no proposal of prosecution, sir. No one accused
16 me of a crime. And at the same time, you know, I thought I had
17 a good chance at a nonprosecution because we were cooperating
18 and I thought, you know, it was good.

19 Q. OK. And, in fact, you thought that what you had done may
20 not have been --

21 A. Criminal.

22 Q. -- may not have been right, you didn't think that you had
23 violated the securities laws, correct?

24 A. I didn't think it was criminal.

25 Q. You didn't think you violated the securities laws, correct?

D3BLLEV5

Georgiadis - cross

1 A. Yeah.

2 Q. You didn't think you had committed wire fraud, correct?

3 A. Yes.

4 Q. You didn't think you had committed mail fraud, correct, you
5 had to be convinced --

6 A. Mail fraud?

7 Q. You didn't think you had committed mail fraud, correct?

8 MR. MASTER: Objection.

9 THE COURT: Sustained.

10 MR. SREBNICK: I'll move on.

11 THE COURT: Thank you.

12 Q. Now, so in January of 2012, after you had that California
13 meeting with the government, it was then for the first time --

14 A. December of 2011 I had the California meeting.

15 Q. I'll sorry again. My bad.

16 You have the meeting in December 2011. You hire a
17 lawyer in January 2012 to represent you in the criminal
18 investigation. Then you hire immigration lawyer in 2012 to
19 start the process of applying for citizenship. Correct?

20 A. Yes, sir.

21 Q. Did you ask your lawyers to communicate to the government
22 that they delay interviewing you so that you could first
23 complete the immigration citizenship process?

24 A. No, sir.

25 Q. Did your lawyer discuss with you that he had asked the

D3BLLEV5

Georgiadis - cross

1 government to do that on your behalf?

2 MR. MASTER: Objection.

3 A. I can't talk to you about what me and my attorney
4 discussed, sir.

5 Q. Did your lawyer tell you that the government had agreed on
6 your behalf to postpone interviewing you until you became a
7 U.S. citizen?

8 A. Did my lawyer tell me that the government?

9 Q. Yes.

10 A. I don't remember.

11 Q. Do you know why, sir, it took an entire year before the
12 government went with you again, wasn't it something you and
13 your lawyer asked of the government that they not interview you
14 until you became a U.S. citizen?

15 A. Sir, I can't go into conversations I had with my lawyer,
16 but we were cooperating. I was cooperating through my lawyer.
17 Like I said, after I became an American citizen, flew back to
18 New York, sat down with the government and my attorney at that
19 time, explained my actions, took my responsibility.

20 MR. SREBNICK: One moment, your Honor.

21 THE COURT: Yes.

22 MR. SREBNICK: Your Honor may we have a short side bar
23 on this issue of privilege?

24 THE COURT: No. Ask a question. You already had a
25 side bar on this. We talked about it at recess.

D3BLLEV5

Georgiadis - cross

1 Q. Did your lawyer tell you that you would be subject to
2 deportation, you wouldn't qualify for citizenship if indeed you
3 pled guilty to a federal crime?

4 MR. MASTER: Objection.

5 THE COURT: Sustained.

6 Q. Who told you, if anybody, that it would benefit you to
7 first become a U.S. citizen before meeting again with the
8 government or resolving your exposure?

9 MR. MASTER: Objection.

10 THE COURT: Sustained.

11 Q. Did you know that it was to your advantage to first become
12 a U.S. citizen before meeting with the government again?

13 A. Sir, after I retained my new counsel, like I said, I wasn't
14 charged with a crime. I wasn't being charged with a crime. We
15 analyzed everything. I did not know my outcome. I was advised
16 to seek immigration counsel and that's what I did. And I can't
17 go into depth conversations about my attorney-client privilege.
18 I'm sorry.

19 Q. Mr. Georgiadis, I'd like to ask you a few questions now
20 about Donna Levy.

21 You knew Donna Levy was the principal or the owner of
22 DML Marketing, you learned that during the course of meeting
23 her?

24 A. Yes.

25 Q. And you understood that she would be involved in investor

D3BLLEV5

Georgiadis - cross

1 awareness campaigns?

2 A. Yes.

3 Q. Promoting --

4 A. Stock promotion, yes.

5 Q. And, indeed, part of what Donna Levy did in order to
6 promote stock and create investor awareness was to obtain lists
7 of individuals that were interested in such information about
8 penny stocks, right?

9 A. That's what she told me, yes.

10 Q. And, indeed, took great pains to what we call scrub emails
11 to make sure that only folks opting in would receive emails,
12 correct?

13 A. Yes.

14 Q. Yes?

15 A. Yes.

16 Q. Rather than those spam emails, it was people who wanted to
17 opt in, that was the focus of DML Marketing's campaign,
18 correct?

19 A. That's what she told me, yes.

20 Q. You told the jury that some of these promotion campaigns
21 could last a day, it could last a couple days, correct?

22 A. Yes.

23 Q. And the whole idea of a promotion campaign, of course, was
24 to generate interest in the stock, correct?

25 A. To address liquidity in the stock.

D3BLLEV5

Georgiadis - cross

1 Q. To generate volume in a stock that might have been dormant
2 because of low liquidity, correct?

3 A. Yes.

4 Q. And Donna seemed to get the job done, right?

5 A. Yes.

6 Q. Many of these stocks might have had no activity for months
7 before an investor awareness campaign, right?

8 A. True, yes.

9 Q. And that information could be obtained by members of the
10 public, they could see what activity had occurred with this
11 stock prior to the investor awareness campaign, right?

12 A. If somebody looked, it's public knowledge, yes.

13 Q. Then you used the term -- I want to make sure we clarify --
14 you talked about level two; do you remember talking about level
15 two?

16 A. Yes, sir.

17 Q. Are you referring to the level one, level two, and level
18 three in terms of the different services available for
19 subscribers to gain information about, public information about
20 the transactions involving penny stocks?

21 A. No. I was referring to the level two of where you monitor
22 the stock. So you see the pricing of the stock, the bid and
23 the offer, with the additional market makers stacked on each
24 side, charts, you can see the charts.

25 Q. Public information if one wants to get it, right?

D3BLLEV5

Georgiadis - cross

1 A. Oh, yeah. You have to pay, but yes.

2 Q. That's why I said you can subscribe, meaning Donna can go
3 out and pay and obtain information that anybody can obtain if
4 they want to do the research, correct?

5 A. Yes, sir.

6 MR. SREBNICK: One moment, your Honor.

7 THE COURT: Yes.

8 Q. You told the jury about an example I thought you used where
9 a stock price was at 50 cents and then somebody might put in an
10 offer at 60 cents?

11 A. Sure.

12 Q. And when you say an offer, you mean an offer to sell?

13 A. Yes.

14 Q. That means that even though on a particular day the
15 reported price, whatever that means in a penny stock, there may
16 have been no volume, right -- is that the last price, what does
17 price mean?

18 A. I was giving an example. I don't know what the price was.

19 Q. I'm saying in a case where you say the price is 50, is that
20 the last reported price in your hypothetical?

21 A. It would be the asking price, the offer price, on the
22 right-hand column, right.

23 Q. So folks are offering to sell it at 50 and then another
24 person might put in an offer to sell it at 60, correct, was
25 that the scenario that you were --

D3BLLEV5

Georgiadis - cross

1 A. Folks would be offering to sell it at 50, right. You would
2 have an offer in at 50 and you can gap up the stock by going
3 right to 60.

4 Q. If people are willing to sell it at 50 and a new person
5 comes in and offers to sell it at 60, not likely that that 60
6 cents offer to sell is going to be filled if someone is willing
7 to sell it for 10 cents cheaper, right?

8 A. Yeah, you can see the demand. That's why I'm saying you
9 can see it on the level two. There's a 50 cent offer and then
10 you're going to 60, yours is going to execute first.

11 Q. Now, the whole idea of an investor awareness campaign is to
12 get more and more people interested in the stock, right?

13 A. Yes.

14 Q. And it's a public event, correct, it's shot out to anybody
15 who wants to subscribe to this information, correct?

16 A. Yes.

17 Q. It's emailed to subscribers, it's put on websites, it could
18 be blogged, correct?

19 A. Sure.

20 MR. SREBNICK: If I could just have a moment.

21 Your Honor, I have no further questions of the
22 witness. Thank you.

23 THE COURT: Thank you, Mr. Srebnick.

24 Mr. Master.

25 REDIRECT EXAMINATION

D3BLLEV5

Georgiadis - redirect

1 BY MR. MASTER:

2 MR. MASTER: First, your Honor, I would offer the
3 defendant's cooperation agreement, 3503-13, into evidence.
4 There have been a number of questions about it.

5 THE COURT: Any objection?

6 MR. MASTER: I want the jury to be able to consider
7 it.

8 THE COURT: 3503-13, the cooperation agreement, is
9 received in evidence.

10 (Government's Exhibit 3503-13 received in evidence)

11 Q. And then I want to ask you a couple questions about this
12 email you sent about the Porsche. It was A169.

13 A. Yes.

14 Q. Do you have a copy in front of you?

15 A. Yes, I have it here.

16 Q. What's the date on that email?

17 A. June 13, 2008.

18 Q. Fair to say you were upset to learn you had some additional
19 costs associated with the Porsche, right?

20 A. Yes.

21 Q. And what was your state of mind when you sent this email?

22 A. I was upset and angry.

23 Q. And even after you sent that email, did you continue to
24 work with Zev for -- with Zev at Cardiac Networks?

25 A. Yes.

D3BLLEV5

Georgiadis - redirect

1 Q. And did you continue to have a good working relationship
2 with him?

3 A. Yes.

4 MR. SHARGEL: Object to the leading.

5 THE COURT: Sustained.

6 Q. How would you describe your working relationship with Zev
7 even after you sent this email about the Porsche?

8 A. We went back to normal. We made up. We had -- we made up
9 beforehand.

10 Q. And even after this, what role did you ask Zev to serve in
11 at Cardiac Networks?

12 A. The vice president of marketing and sales.

13 MR. MASTER: Just one moment, your Honor.

14 Nothing further.

15 THE COURT: Gentlemen?

16 MR. SHARGEL: I'm finished.

17 THE COURT: Mr. Georgiadis, you're excused. Thank you
18 very much.

19 (Witness excused)

20 THE COURT: Ladies and gentlemen, you've just heard
21 the testimony of Fotis Georgiadis who is, as you know, a
22 cooperating witness. I will have further instructions for you
23 at the end of the trial on how to consider the testimony of a
24 cooperating witness, but there is one aspect of his testimony
25 that I want to instruct you on right now.

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1 Mr. Georgiadis has pled guilty to charges arising out
2 of this case. I instruct you now that you are to draw no
3 conclusion or inferences of any kind about the guilt of the
4 defendants on trial here merely from the fact that
5 Mr. Georgiadis pleaded guilty to criminal charges. His
6 decision to plead guilty was a personal decision for him, and
7 he made that decision about his own guilt. It may not be used
8 by you in any way as evidence against or unfavorable to the
9 defendants on trial here.

10 Call your next witness.

11 MS. COHEN: Your Honor, at this time we'd like to read
12 a stipulation into evidence. And then we're going to play
13 recordings, and we have binders to hand out of the transcripts
14 of the recordings.

15 THE COURT: OK. Go ahead, Ms. Cohen.

16 MS. COHEN: Thank you, your Honor. It's marked for
17 identification as Government Exhibit S-1. It's a stipulation
18 by the parties. It has a heading of the case, and it's
19 stipulated by and between the parties.

20 No. 1. Government Exhibit 700 is a true and accurate
21 copy of a disk containing recordings and information
22 intercepted pursuant to court authorized interceptions of wire
23 (i.e. telephone) communications over telephone number
24 (917)687-8069.

25 2. Government Exhibits 700-1, 700-2, 700-3, 700-4,

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1 700-5, and 700-6 are recordings of calls intercepted pursuant
2 to the court authorized wiretap and are a subset of recordings
3 contained on Government Exhibit 700.

4 3. Government Exhibit 700-1-T, 700-2-T, 700-3-T,
5 700-4-T, 700-5-T, and 700-6-T are transcripts of the recordings
6 contained in 700-1, 700-2, 700-3, 700-4, 700-5, and 700-6
7 respectively. These transcripts accurately convey the
8 following information concerning the recordings: the date and
9 time of the telephone conversation, the participants in the
10 conversation, whether the call was incoming or outgoing, and
11 the number of the other telephone the call was placed to or
12 from as applicable.

13 4. Government Exhibits 520, 521, and 525 are true and
14 correct copies of recordings of consensually monitored calls
15 between Joseph Saranello and David Levy maintained in the
16 custody of a federal law enforcement agent who was supervising
17 recordings made by Saranello.

18 5. Government Exhibits 520-T, 521-T, and 525-T are
19 transcripts of recordings contained in Government Exhibit 520,
20 521, and 525 respectively. These transcripts accurately convey
21 the following information concerning the recordings: the date
22 and time of the telephone conversation and the participants in
23 the telephone conversation.

24 It is further stipulated and agreed that Government
25 Exhibits 700-1, 700-2, 700-3, 700-4, 700-5, 700-6, and actually

D3BLLEV5

1 just ending at 700-6, 520, 521, and 525, and transcripts
2 700-1-T, 700-2-T, 700-3-T, 700-4-T, 700-5-T, 700-6-T, 720-T and
3 721-T, 725-T may be received --

4 THE COURT: You mean 520, 521, 525.

5 MS. COHEN: My apologies, your Honor. 520-T, 521-T,
6 and 525-T may be received in evidence at trial and that this
7 stipulation may be received in evidence at trial.

8 A moment, your Honor.

9 THE COURT: They're received in evidence.

10 MS. COHEN: Your Honor, it's been signed by the
11 parties and it's marked as Government Exhibit S-5. We move
12 stip S-5 and the exhibits.

13 THE COURT: S-5 and the exhibits referred to are
14 received in evidence.

15 (Government's Exhibits S-5, 700-1, 700-2, 700-3,
16 700-4, 700-5, 700-6, 520, 521, 525, 700-1-T, 700-2-T, 700-3-T,
17 700-4-T, 700-5-T, 700-6-T, 520-T, 521-T, 525-T received in
18 evidence)

19 MR. MASTER: May we distribute the transcript binders?

20 THE COURT: You may distribute the transcript binders,
21 yes.

22 MR. SHARGEL: Judge, may we approach?

23 (Continued on next page)
24
25

D3BLLEV5

(At the side bar)

MR. SHARGEL: Ms. Hays just came over to me and thinks Mr. Master may have misspoken because when he offered the cooperation agreement, he said defendant's cooperation agreement. And what Jennifer said was that members of the jury looked over at David. I don't know. She has better ears than I do.

THE COURT: What do you want me to do?

MR. MASTER: It's always possible I misspoke.

MR. SHARGEL: I misspeak all the time.

THE COURT: You're forgiven. Do you want to give me the document and I'll be happy to say it's the cooperation agreement.

MR. MASTER: Absolutely.

MR. SHARGEL: Just get the agreement. Thank you, Judge.

(Continued on next page)

D3BLLEV5

(In open court)

THE COURT: Ladies and gentlemen, some of us make have misspoken. 3503-13 is the cooperation agreement between the government and Mr. Fotis Georgiadis. It's not a cooperation agreement with anybody else except Mr. Georgiadis. It's 3503-13.

OK. Going to play the tapes now?

MR. MASTER: Yes, your Honor. May we proceed?

THE COURT: Yes.

MR. MASTER: We'll begin with Government Exhibit 700-1-T. And if the jury can just turn to that first tab, Government Exhibit 700-1, and it's a call that occurred on April 5, 2010, between Donna Levy and an individual named Sal Fede.

(Audio recording played)

MR. MASTER: Now next the government is going to play 700-2, and request the jury go to 700-2-T, call on April 6, 2010, between Donna Levy and Sal Fede.

(Audio recording played)

(Continued on next page)

D3brlev6

1 MR. MASTER: At this time the government will play
2 Government Exhibit 700-3 and would request the jury turn to
3 700-3-T. It's a conversation between Donna Levy and Sal Fede
4 on April 30, 2010.

5 (Audio played)

6 MR. MASTER: Now we are going to play Government
7 Exhibit 700-4, request that the jury follow on 700-4-T, the
8 call taking place on May 7, 2010, between Donna Levy and Sal
9 Fede.

10 (Audio played)

11 MR. MASTER: Now the government is going to play
12 Government Exhibit 700-5, and it requests the jury to follow
13 along on 700-5-T. It's a call from later that day, May 7,
14 2010, between Donna Levy and Sal Fede and Jeffrey Hurwitt.

15 (Audio played)

16 MR. MASTER: Finally, your Honor, at this time the
17 government would play Government Exhibit 700-6 and request that
18 the jury follow along at 700-6-T. It's a call of May 10, 2010,
19 between Donna Levy and Sal Fede.

20 (Audio played)

21 MR. MASTER: Your Honor, we are going to play the
22 remainder of the calls later in the trial.

23 THE COURT: OK.

24 MR. MASTER: At this time the government calls Michael
25 Swartzburg.

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1 MICHAEL SWARTZBURG,
2 called as a witness by the government,
3 having been duly sworn, testified as follows:

4 THE WITNESS: Michael Charles Swartzburg.

5 THE CLERK: Please spell your name for the record.

6 THE WITNESS: Michael, M-I-C-H-A-E-L, Charles,
7 C-H-A-R-L-E-S, Swartzburg, S-W-A-R-T-Z-B-U-R-G.

8 THE COURT: Please sit down, Mr. Swartzburg, make
9 yourself comfortable.

10 DIRECT EXAMINATION

11 BY MS. COHEN:

12 Q. Mr. Swartzburg, what is your educational background?

13 A. I have a Bachelor's degree in business administration from
14 California State University of Northridge with an option in
15 accounting.

16 Q. Where do you work now?

17 A. I work at a company called Mack Pharmaceuticals.

18 Q. In general, what do you do there?

19 A. I do finance accounting.

20 Q. Can you give the jury, please, a brief history of your work
21 after graduating from school leading up to your current job.

22 A. After graduating from California State University at
23 Northridge, I went to a CPA firm, Ernst & Young. Back then it
24 was one of the Big Six accounting firms. I stayed there for
25 about four years. After the third year I transferred to San

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Swartzburg - direct

1 Jose and continued to work out of that office. After that, I
2 then went to several companies. One of those companies was
3 Verifone, Hewlett Packard, Boston Scientific, several other
4 companies.

5 Q. What happened in or about 2006? Where were you working?

6 A. In 2006 I was in Los Angeles. I was at one point working
7 at a company that is a partner of Cisco. They make routers for
8 securities and security for those routers. After that, in
9 about 2007, I went and started doing some different projects.

10 Q. What project did you learn about in or about 2007-2008?

11 A. I was working at a project which was meant to produce
12 concert events, musical events, similar to the Live Aid type of
13 event where you would have multiple broadcasts. After that I
14 continued to do some other musical, entertainment type
15 projects.

16 Q. At some point did you get introduced to a company called
17 Cardiac Networks?

18 A. I did.

19 Q. Where was that?

20 A. That's right around August of 2008, after I'd finished some
21 of those musical projects.

22 Q. How did it come about that you were introduced to Cardiac
23 Networks?

24 A. Through a mutual friend of one of the musical projects, I
25 was introduced to some of the larger shareholders of Cardiac

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Swartzburg - direct

1 Network.

2 Q. Who were you introduced to?

3 A. I was introduced to David Levy, I was introduced to Fotis
4 Georgiadis.

5 Q. When was the first time you met with David Levy and/or
6 Fotis?

7 A. To the best of my recollection, it was around August of
8 2008.

9 Q. Where did you meet in August of 2008 with David Levy and
10 Fotis?

11 A. They were informal meetings. I was introduced at I think
12 it was a lunch at a restaurant.

13 Q. Who was at the lunch meeting?

14 A. There were, again, a couple of these sort of lunch informal
15 meetings. At one point I had met with David Levy, Donna Levy,
16 Fotis Georgiadis. There was another lady named Judy Crowhurst
17 I met with as well.

18 Q. What was the purpose of these meetings with David Levy,
19 Fotis, Donna Levy, and Judy Crowhurst?

20 A. It was really just to explore my interest in working with
21 some of the companies that they were affiliated with.

22 Q. What did David Levy say to you during these meetings?

23 A. Just that there was a company that he was invested in that
24 needed help, that company was called Cardiac Network, and that
25 it is a company that had potential.

D3brlev6

Swartzburg - direct

1 Q. What did he tell you about what his interest was in you
2 vis-a-vis Cardiac Networks?

3 A. He stated that he was concerned that the company was not
4 being run properly by the then-current CEO and that perhaps I
5 could step in and offer some assistance to be determined. We
6 kind of explored the different types of ways I might become
7 involved with the company.

8 Q. What did Donna Levy say at these lunch meetings, at the
9 lunch meeting or some of the other meetings you had?

10 A. Similar. She was concerned that the management, the CEO,
11 was not running the company properly but that it had great
12 potential if run by the right person.

13 Q. After you had a few of these conversations and meetings
14 with Donna Levy and David Levy -- and you said Fotis was there
15 as well, is that right?

16 A. Off and on. At least one of the meetings I met with Fotis
17 as well.

18 Q. What happened after these initial meetings?

19 A. To the best of my recollection, we decided that I should go
20 up and meet with that then current CEO under the guise of maybe
21 offering assistance with a business plan. So I flew up
22 probably call it August 18th, 19th, somewhere in that range, to
23 meet with the CEO, Zev Helfer.

24 Q. We are in 2008, is that right?

25 A. That's in August of 2008.

D3brlev6

Swartzburg - direct

1 Q. Did you meet with Zev Helfer when you flew to California in
2 August of 2008?

3 A. Yes, I did.

4 Q. What happened at the meeting with Zev Helfer?

5 A. He showed me around the company. He introduced me to the
6 process of cardiac monitoring, showed me the staff. I asked
7 him for a business plan. He showed me what he said was his
8 business plan. Then I went back and sort of reported back my
9 assessment.

10 Q. Who did you report back to?

11 A. Again, David Levy and Fotis Georgiadis.

12 Q. What was the discussions between yourself, David Levy, and
13 Fotis, after you had met with Zev Helfer?

14 A. They asked if I was interested. I said I was interested.
15 I said that I could produce a business plan. They said they
16 could basically have me voted in to replace Zev Helfer.

17 Q. How did they explain to you that you would be voted in to
18 replace Zev Helfer?

19 A. They stated that the method for which I would be voted in
20 would be a vote of the shareholders, and that if a majority of
21 the shareholders voted me in, I could then assume the role of
22 CEO.

23 Q. Did you accept that offer from David Levy?

24 A. I did.

25 Q. What happened next?

D3brlev6

Swartzburg - direct

1 A. The attorney working I believe with Fotis drew up two
2 documents. They drew up a shareholder resolution which
3 required shareholders to vote. They drew up a second, a board
4 resolution. Assuming the first resolution went through, then
5 they would reconstitute the board of directors with a new set
6 of board of directors.

7 Q. What was your understanding of who held shares in Cardiac
8 Network and who was entitled to vote at this time?

9 A. It was my understanding that there were significant
10 shareholders. One of them was the former CEO, who probably
11 held about call it 33 percent. There was another significant
12 shareholder by the name of Dwight West, who probably held about
13 call it 16 percent. Between the two of them, they held about
14 50 percent. Then, the other 40 to 50 percent was held by
15 perhaps a dozen other individuals.

16 Q. You say the former CEO. Who are you referring to?

17 A. That former CEO is Zev Helfer.

18 Q. At the time before you came in as CEO, what was your
19 understanding as to who he would what shares in Cardiac
20 Network?

21 A. It was my understanding that Zev held, again, call it a
22 roughly one-third interest. You had another shareholder by the
23 name of Dwight West, who held roughly 16 percent or 16 million
24 shares. There was roughly about 100 million shares, so the
25 math actually works. There was David Levy and/or company that

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Swartzburg - direct

1 had, I don't remember the exact number of shares, but between
2 David Levy, Fotis Georgiadis, Fotis's family, several other
3 shareholders that all I guess somehow knew each other, that
4 made up the other 50 percent.

5 Q. What was your understanding with respect to the shares held
6 by David Levy and his friends and family and Fotis and his
7 friends and family with respect to what type of shares they
8 held?

9 A. I was introduced to the concept of some shares are what is
10 called free-trading shares, which means you can go out there
11 and trade them or deposit them with a broker, and there are
12 some shares that are restricted from trading either because
13 they weren't registered or for some other reason they were
14 restricted from being able to trade publicly.

15 Q. Who introduced you to the concept of restricted shares
16 versus free-trading shares?

17 A. That was discussed in the initial meeting with David and
18 Fotis just so that I understood kind of what I was getting
19 into.

20 Q. What did David Levy tell you about who held restricted
21 shares in Cardiac Network and who held free-standing shares?

22 A. It was my recollection that David Levy, Fotis Georgiadis, I
23 suppose Fotis's family, and several others held unrestricted
24 shares, whereas Zev Helfer, Dwight West, I think Eli Gang was
25 the medical director, they held restricted legends on their

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Swartzburg - direct

1 shares.

2 Q. What were your discussions about how you were going to be
3 paid if you came in as the new CEO of Cardiac Networks?

4 A. The discussion, I offered up what I felt was reasonable,
5 and it was agreed that I would get a salary and the opportunity
6 to get shares in the company.

7 Q. Was there any agreement about how you would get shares in
8 the company at the time before you came in?

9 A. The initial conversation was stock options and a salary of
10 \$250,000, of which only half of it would be paid, the other
11 half deferred, assuming the company was able to raise call it
12 \$10 million or more. Even the half that I was to be paid,
13 obviously it assumed there would be money in the bank to pay
14 me. Very quickly into the company, there was another
15 discussion about giving me actual shares in lieu of some of
16 that salary.

17 Q. Who were you having these discussions about your shares,
18 the options, and your salary with?

19 A. The initial conversation, again, bringing me on board, was
20 with David and Fotis to come into the company, sort of my
21 expectations. Once I was in the company, that was a discussion
22 that also happened with David and Fotis but mostly with the
23 board of directors. Eventually, I put forth a communication to
24 the same significant shareholders that had voted me in, I put
25 forth a communication that would discuss me getting more

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Swartzburg - direct

1 shares.

2 Q. Let's talk about getting you voted in. If you could look
3 at what's been marked for identification Government Exhibit
4 201-44 in the binder in front of you. It should be the first
5 document.

6 A. Yes.

7 Q. Without telling us what it says, do you recognize the
8 document?

9 A. Yes.

10 Q. What do you recognize it as?

11 A. These are minutes to a board of directors meeting which
12 also has exhibits.

13 Q. Does your signature appear on certain of the exhibits?

14 A. Yes.

15 Q. Is this a true and accurate copy of the documents as you
16 recall them?

17 A. Yes.

18 MS. COHEN: Your Honor, the government moves
19 Government Exhibit 201-44 into evidence.

20 MR. SHARGEL: No objection.

21 THE COURT: 201-44 is received in evidence.

22 (Government's Exhibit 201-44 received in evidence)

23 Q. Turn to the first page and explain to the jury what these
24 minutes are about.

25 A. What these minutes discuss is, again, this resolution and

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Swartzburg - direct

1 action that was taken. The first action is to reconstitute the
2 board of directors with a new board of directors and then to
3 delete former officers and replace those former officers with
4 me.

5 Q. The date of this board meeting is September 4, 2008, is
6 that right?

7 A. Yes.

8 Q. You attended this board meeting, right?

9 A. Yes.

10 Q. What happened? What was voted on at this board meeting on
11 September 4, 2008? Who was deleted and who was added?

12 A. Who was deleted is Zev Helfer, Eli Gang, and Dwight West.

13 Q. We see that on the third page of the document?

14 A. Yes. And added is myself serving as the CEO/president, the
15 chief financial officer, and adding Keith Rosenbaum as the
16 secretary.

17 Q. Who is Keith Rosenbaum?

18 A. Keith is an attorney that was working with Fotis. He is
19 also one that helped draft these actions.

20 Q. If you turn to the last page of the minutes, which is the
21 fifth page, is that your signature that appears there approving
22 the minutes?

23 A. Yes.

24 Q. If you can turn to Exhibit A to the minutes, which is the
25 next page. What is Exhibit A to the minutes?

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Swartzburg - direct

1 A. It's called an action by unanimous written consent of the
2 board of directors of Cardiac Network.

3 Q. Is this the action removing Zev Helfer, Eli Gang, and
4 Dwight West?

5 A. Yes.

6 Q. And replacing them with yourself?

7 A. Yes.

8 Q. Again, on the last page, which is the third page of
9 Exhibit A, is that your signature?

10 A. Yes.

11 Q. If you turn a couple more pages you get to Exhibit B of the
12 minutes.

13 A. Yes.

14 Q. What is Exhibit B?

15 A. Exhibit B is the employment agreement that would basically
16 discuss my role in the company, the things that I was going to
17 accomplish, objectives, as far as turning around the company.
18 It also discussed some salary and contemplated some stock
19 options.

20 Q. The salary being discussed there, you are referring to
21 paragraph 3 on the first page?

22 A. Yes.

23 Q. That's the 250 base salary you told us about before taken
24 at half pay?

25 A. Yes.

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Swartzburg - direct

1 Q. If you look at the last page of this employment agreement,
2 which is the fifth page of it, is that your signature there?

3 A. Yes.

4 Q. It says it is subject to board ratification, right?

5 A. Yes, which essentially that is what this board meeting
6 does. By attaching the exhibits, it essentially ratifies the
7 employment agreement.

8 Q. What was the state of Cardiac Network's financial affairs
9 when you stepped in as CEO?

10 A. When I stepped in, the company essentially had no funds to
11 operate.

12 Q. When you stepped in, did you review the books and records
13 of Cardiac Networks?

14 A. Yes.

15 Q. What did you find?

16 A. I found a lot of money had been spent trying to generate
17 business. It seemed like it was not working successfully.

18 Q. What did you do when you stepped in as CEO for money to run
19 the company?

20 A. One of the requirements for me to step in was there had to
21 be money for me to operate, at least to get started. Fotis
22 Georgiadis and David Levy agreed to each put in \$20,000 to at
23 least get me started when I took office.

24 Q. Did David Levy and Fotis forward to the Cardiac Networks
25 the \$40,000 total they promised?

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Swartzburg - direct

1 A. Yes.

2 Q. Did they get any stock or anything else, a promissory note,
3 any other document in return?

4 A. Not at that time.

5 Q. What was Zev Helfer's role when you stepped in as CEO to
6 replace him?

7 A. The day that I stepped in, I met with Zev to assess his
8 attitude and how he felt about helping the company going
9 forward. Based on that discussion, I agreed to keep Zev on as
10 a VP of marketing and sales.

11 Q. Why did you agree to keep Zev Helfer on as a VP of
12 marketing and sales?

13 A. My role in stepping in really was to help build a business
14 plan. But Zev Helfer, as long as he cooperated, was helpful
15 with understanding the contracts, the doctors, how the medical
16 devices worked, and how the heart monitoring performed.

17 Q. When you came on board, what discussions did you have with
18 David Levy about any promissory notes that existed between
19 himself or one of his companies and Cardiac Networks?

20 A. Within the first two weeks, David had notified me that
21 there was a note outstanding, it was debt, but it was
22 convertible debt, and that I would be receiving a notice that
23 David wished to convert that debt into actual stock per the
24 agreement.

25 Q. What did you ask him about why he wanted to convert the

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Swartzburg - direct

1 note into stock?

2 A. I just asked if there was a purpose. Of course, coming in,
3 I was concerned that he wasn't going to be able to sell, only
4 because that would affect the stock price and other things that
5 I was concerned about. He said he needed his converted just in
6 case.

7 Q. What did he say about whether he intended to sell the
8 shares he was going to convert?

9 A. He said he did not intend to sell the shares.

10 Q. Was this discussion with David Levy when he contacted you
11 to say he wanted to convert his note the first time you learned
12 of the promissory note?

13 A. Yes.

14 Q. How much was the promissory note for?

15 A. \$200,000.

16 Q. What did David Levy say about how conversion would work?

17 A. David Levy said that I would get help from his attorney in
18 verifying the conversion formula. There is a formula for
19 converting dollars to shares. I did receive from his attorney
20 a letter that explained how the conversion process worked.

21 Q. I'm going to ask you to look first in your binder at what
22 actually is in evidence -- you can put it up, Mr. Dinet -- as
23 Government Exhibit 201-1.

24 A. Yes.

25 Q. I ask you if you recognize Government Exhibit 201-1.

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Swartzburg - direct

1 A. Yes.

2 Q. What is it?

3 A. It is a convertible promissory note for \$200,000.

4 Q. Is that the promissory note that David Levy called you
5 about after you first joined the company?

6 A. Yes.

7 Q. What is it you see in the first paragraph there? It talks
8 about Cardiac Network, and then it's an agreement between
9 Cardiac and Date Palm Capital. What is Date Palm Capital?

10 A. I believe Date Palm Capital is a company affiliated or
11 controlled or owned by David Levy.

12 Q. Do you see there is another company there, Bedrock Ventures
13 LLC. What is Bedrock Ventures LLC?

14 A. I was under the impression that Bedrock Ventures is a
15 company either controlled or owned or affiliated with Fotis
16 Georgiadis.

17 Q. Your discussions about this promissory note 201-1 were with
18 David Levy, correct?

19 A. Yes.

20 Q. How did it come about that you first saw a copy of
21 Government Exhibit 201-1?

22 A. My recollection is it was faxed to me, although later I did
23 find it in the files of Cardiac Network. My first viewing of
24 this I believe was through a fax.

25 Q. Who faxed it to you?

D3brlev6

Swartzburg - direct

1 A. That I believe came from David Levy's attorney.

2 Q. You talked about a letter you received from David Levy's
3 attorney about the note?

4 A. Yes.

5 Q. If you can turn to Government Exhibit 201?

6 A. Dash 6?

7 Q. Dash 6, which would be the next document in your binder. I
8 ask you if you recognize the document. If you do, what is it?

9 A. This is called a notice of exercise, which to me is really
10 a notice of intent to convert the note into shares.

11 Q. Do you recognize this document marked for identification as
12 Government Exhibit 201-6?

13 A. Yes.

14 MS. COHEN: Your Honor, the government moves
15 Government Exhibit 201-6 into evidence.

16 MR. SHARGEL: No objection.

17 THE COURT: 201-6 is in evidence.

18 (Government's Exhibit 201-6 received in evidence)

19 Q. If you can explain to the jury, please, what your
20 understanding -- first of all, did you receive this letter from
21 William Aul on or about September 5, 2008?

22 A. Yes.

23 Q. Who was William Aul?

24 A. William Aul, it is my understanding that that is an
25 attorney working with David Levy.

D3brlev6

Swartzburg - direct

1 Q. What did you understand this letter to tell you?

2 A. I understood this letter basically restated what I had
3 pretty much already known, that there was an attempt to convert
4 the \$200,000 note into actual shares.

5 Q. I ask you to please look at what should be the next
6 document in your binder but maybe one ahead of that, Defense
7 Exhibit A in evidence, A137.

8 MS. COHEN: I'm sorry, your Honor. I'll ask some
9 questions and then I'll move it into evidence.

10 Q. I ask you to look at what's been marked for identification
11 as Defense Exhibit A37.

12 THE COURT: A37 or 137?

13 MS. COHEN: A137. I apologize, your Honor.

14 Q. Look at this document. Do you recognize it?

15 A. Yes.

16 Q. Is it a true and accurate copy of a letter you received?

17 A. Yes.

18 MS. COHEN: Your Honor, the government moves Defense
19 Exhibit A137 into evidence.

20 MR. SHARGEL: May I have a moment to see that once
21 more? I have no objection.

22 THE COURT: A137 is in evidence.

23 (Defendant's Exhibit A137 received in evidence)

24 Q. Could you tell the jury what is the letter. Do you recall
25 receiving this letter from Bill Aul to yourself?

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1 A. Yes.

2 Q. In November 2008?

3 A. Yes.

4 Q. What is this letter? What was your understanding of what
5 this letter meant?

6 A. To my understanding, this letter is that along with the
7 issuance and the conversion of the note, this letter from the
8 attorney is a requirement to making that shares free of
9 restrictive legends. In other words, they would be able to be
10 freely traded.

11 Q. After you got this letter, what happened with respect to
12 the shares at issue in this letter?

13 A. I believe that I had forwarded this letter along with these
14 various instructions to the transfer agent that is responsible
15 for not only issuing shares but either adding or removing
16 restrictions on the shares.

17 Q. Before we get to that, let me back up for a minute. When
18 you first got to the company, you had this conversation with
19 David Levy about the promissory note, right?

20 A. Yes.

21 Q. What else did you do with respect to any shares of the
22 company that were outstanding?

23 A. When I got to the company, as I referred to this
24 100 million shares that were outstanding, some of which were
25 owned by various individuals, I felt that that was too many

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1 shares to be outstanding for a new investor to come in. They
2 would be intimidated by that many shares outstanding. So I
3 approached the larger shareholders and asked them to sign an
4 agreement to voluntarily reduce their shares in half.

5 Q. Why were you concerned that there were, as you said, so
6 many outstanding shares?

7 A. I think a new investor coming into a company doesn't want
8 to feel like they are going to put all this money into a
9 company and have just a very small percentage. Having less
10 shares outstanding allows that person to come in and have a
11 greater percentage for their money.

12 Q. At the time when you first came in, did you understand that
13 you needed to look for new investors to get some more money
14 into the company?

15 A. Yes. One of the things that is actually built into my
16 agreement is to go out and find funding sources for the company
17 at the time I took office.

18 Q. Before asking different shareholders to reduce their
19 shares, who did you discuss this idea of share reduction with?

20 A. I discussed this with David Levy, Fotis Georgiadis, the
21 board of directors.

22 Q. What did David Levy say with respect to the reduction in
23 shares?

24 A. After I explained my reasoning behind it in that it would
25 allow me to better approach investors, he thought that that was

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1 a good idea.

2 Q. Did you have a similar discussion with Fotis?

3 A. Yes.

4 Q. What did Fotis say about your proposal to reduce the
5 shares?

6 A. After hearing my proposal, he also agreed to it.

7 Q. If I can have you look, please, at what's been marked for
8 identification as Government Exhibit 201-40, which is in your
9 binder. I ask you to look at this document and, if you
10 recognize it, tell us briefly what it is.

11 A. Got it. This is a memorandum of agreement. This is the
12 document that was created to discuss and memorialize the
13 agreement to reduce those shares outstanding.

14 Q. This is a document that you sent out and was signed by you?

15 A. Yes.

16 Q. Is this a true and accurate copy of the document that you
17 sent out?

18 A. Yes.

19 MS. COHEN: Your Honor, the got moves Government
20 Exhibit 201-40 into evidence.

21 MR. SHARGEL: Without objection.

22 THE COURT: 201-40 is received into evidence.

23 (Government's Exhibit 201-40 received in evidence)

24 Q. Mr. Swartzburg, if you could walk us through this letter.
25 This is written by you, is that right?

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1 A. Yes.

2 Q. Who was it sent to?

3 A. Selective shareholders, which essentially is the
4 shareholders that wanted to vote to reduce their shares.

5 Q. Which shareholders were you asking to vote?

6 A. Now I'm actually including all the major shareholders,
7 including Zev Helfer, the previous CEO, Dwight West, and the
8 other names that I had previously mentioned as significant
9 shareholders.

10 Q. If you can walk us through the first paragraph.

11 A. I basically have a real transparent and tough discussion
12 with the shareholders where I say the company is in jeopardy of
13 shutting its doors, we need to go out and raise money to get
14 funding, that I would like to immediately try and find a
15 \$300,000 bridge loan from some source, and that I would like to
16 target 10 to \$12 million from venture funds located in the
17 area.

18 Q. What are venture funds?

19 A. Venture funds, and this is all sort of in the San Francisco
20 Bay area. It is very common to have venture funds in that
21 area. They are the ones who will give money to a small company
22 or startup company before it gets much larger. That's really
23 considered seed money to really develop the business.

24 Q. Do you see the second paragraph, where you talk about "Our
25 current capitalization structure of over 116 million shares

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1 issued and outstanding"?

2 A. Yes.

3 Q. Explain for us what you meant in this paragraph, talking
4 about the float and the stock being volatile.

5 A. There is 116 million shares outstanding, which means if the
6 shares were at a dollar a share, the company somehow is worth
7 \$160 million. I thought it would be very difficult to bring in
8 new investors with that kind of large amount of shares
9 outstanding and actually get a good valuation.

10 So What this discussed is we want to take down that
11 number but at the same time there are shares that are in the
12 hands of the public. These are shares that I don't know who
13 owns them, but they are smaller amounts of shares that are
14 traded freely in the public. I did not want their shares to be
15 affected. I didn't want to go out to these anonymous people
16 and arbitrarily reduce their shares in half. This discusses
17 voluntarily reducing the significant shareholders but not
18 messing with the float.

19 Q. The float refers to the --

20 A. The shares that are out there in the general public.

21 Q. You say here the stock is volatile as it is. What did you
22 mean by that?

23 A. Volatile basically means the stock at any moment could go
24 up, down, it could go up significantly, down significantly.
25 What I wanted to do was try and create a more stable company

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1 and thereby attract investors that might get scared away when
2 the stock price is constantly going up and down. That is what
3 volatility refers to, the stock price constantly going up and
4 down.

5 Q. When you look at the next page, that's where you sign it
6 and you talk about Exhibit A?

7 A. Yes.

8 Q. Reduction and allocation of shares.

9 A. Yes.

10 Q. How much were you asking each of the major shareholders to
11 voluntarily reduce their shares by, what percentage?

12 A. I was asking them to cut their shares in half.

13 Q. If you can look at Exhibit A, please, the next page.

14 A. Yes.

15 Q. What is shown here in the chart?

16 A. The chart shows the amount of shares that were then
17 currently owned by each of the people listed, each of the
18 individuals listed. You see at the top the larger shareholder
19 was Zev Helfer, which was the former CEO. Those shares would
20 be subject to a 50 percent reduction.

21 After the 50 percent reduction, there would be some
22 reallocation of shares to give me common shares in the company
23 as well as the secretary and another person. What that did was
24 it meant that I could get shares in the company without having
25 to issue new shares. It would come out of the reduction.

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1 Q. Do you see under the notes part it talks about, under Zev
2 Helfer, the block of people there and the entities are all,
3 under the notes column, listed as free-trading shares. What
4 did you mean by that?

5 A. Correct. Where I listed them as free-trading shares, I was
6 trying to make the point that those had value and that if we
7 needed to, we may need to pull some of those for this potential
8 bridge loan. What I was referring to is, as I understood it,
9 those were the shares that did not have restrictions on them at
10 the time.

11 Q. But the 33 million shares owned by Zev Helfer were
12 restricted shares?

13 A. Correct.

14 Q. As well as the shares by Dwight West and Eli Gang, if I'm
15 reading it right, is that right?

16 A. Yes. Their shares had restrictive legends on them that
17 would make them not easily tradeable.

18 Q. How did you get approval from the majority shareholders as
19 listed here to reduce their shares in half?

20 A. By then I did know more people than when I first came into
21 the company. Some of those names, for example, Zev, David
22 Levy, John Fisher, who was also a board member, Bedrock
23 Ventures, I was able to approach them directly and have them
24 give me their signatures. Some of the other ones I didn't know
25 and asked for help to collect those signatures and was able to

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1 get help collecting those signatures.

2 Q. Who helped you collect the signatures for the voluntary
3 share reduction?

4 A. Fotis Georgiadis helped me collect shares that I believed
5 were owned by his family. I wasn't exactly sure of the exact
6 relationships other than they had the same last name. Those
7 shareholders Fotis helped me collect. There was probably a few
8 names that David Levy helped me track down as well.

9 Q. Who was included in the names David Levy helped you track
10 down?

11 A. I don't remember it all exactly. I think Moty Landau, I
12 believe. I'm not sure about David Newren, but I believe maybe
13 David Champion possibly.

14 Q. When you say helped you track down, what do you mean by
15 that?

16 A. I needed their signatures faxed to me, so I needed somebody
17 to contact them, provide a fax number, and help me get them to
18 fax me their signatures.

19 Q. Do the rest of the pages of Exhibit A show the signatures
20 that you collected through David Levy and Fotis for the share
21 reduction?

22 A. Correct.

23 Q. The promissory note that David Levy had that he was going
24 to convert to shares, were those shares included in the
25 reduction?

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1 A. No.

2 Q. What were your conversations with David Levy about those
3 shares?

4 A. There were a couple of points that were made in the
5 discussion whether or not that would be subject. One is it was
6 a \$200,000 promissory note. By reducing the shares, reducing
7 those shares would be basically forgiving half the note, for
8 example.

9 There was a discussion of if it really was going to be
10 subject, why not just wait and convert after reduction. In
11 fact, I think what happened was by the time it was issued, it
12 was probably after executing the shareholder reduction
13 agreement anyways.

14 Q. I'm going to ask you to look at what is in evidence as
15 Government Exhibit 250-30, please. Mr. Dinet, if you could put
16 that on the screen. While you are doing that, who was the
17 transfer agent for Cardiac Networks when you came in?

18 A. We used a company called Standard Registrar and Transfer
19 Company.

20 Q. Do you recognize Government Exhibit 250-30? You can flip
21 through it.

22 A. Yes, I recognize the content of it. I don't remember
23 actually if I saw this, but I certainly recognize what's in it.

24 Q. What is shown on the first page of Government Exhibit
25 250-30?

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1 A. That is showing the issuance of the converted note, roughly
2 the \$200,000 under the formula converted to 1,888,154 shares.

3 Q. This was done on top it says November 17, 2008, is that
4 about right?

5 A. Yes.

6 Q. Was that before or after the share reduction?

7 A. The share reduction agreement was, I believe, and I have to
8 go back and look, I think it was October. By the time we got
9 done executing the submission of the shares and the reduction
10 and then the reissuance, it's around that same time.

11 Q. But the shares that are shown here, the 1.8 million-plus
12 shares, were not subject to the reduction?

13 A. No.

14 Q. If you flip to the sixth page of this document, you will
15 see a fax cover sheet from you to Standard Registrar.

16 A. Yes.

17 Q. What is this fax cover sheet?

18 A. What this does is per the instructions discusses the
19 issuance of the shares.

20 Q. Whose instructions were they?

21 A. The shareholder, in this case David Levy.

22 Q. If you turn to the next page, you see you are faxing the
23 corporate resolution?

24 A. Yes.

25 Q. What was that corporate resolution doing?

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1 A. The corporate resolution just further documents the
2 issuance of the shares in accordance with -- it references the
3 note, it references the formula.

4 Q. On the second page of the resolution?

5 A. Yes.

6 Q. The shares were to Date Palm Capital, sent to the law
7 offices of William Aul, is that right?

8 A. Yes.

9 Q. You signed this?

10 A. Yes.

11 Q. After the reduction in shares, were new share certificates
12 issued to the majority shareholders who voluntarily agreed to
13 reduce their shares?

14 A. Yes.

15 Q. What type of shares were issued?

16 A. The transfer agent, and I'm not going to get into whether
17 it was rightly or wrongly, reissued the certificates at the 50
18 percent reduction but they put restrictive legends on them when
19 the certificates were issued.

20 Q. What did that mean?

21 A. That means that regardless of how the shares came to the
22 transfer agent, the transfer agent issued them as if they were
23 restricted from trading, no different from any other new
24 issuance.

25 Q. Do you know how the certificates for the different majority

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1 shareholders got sent out to the shareholders, who received
2 them on behalf of the shareholders?

3 A. I believe what we decided to do is send them to Bill Aul,
4 who was the attorney, to sort of hold on to them as we
5 continued to restructure the company.

6 Q. When you say we had these discussions, who are you
7 referring to?

8 A. It's mostly me, but we did have a board of directors, and
9 everybody who participated seemed to be OK with this attorney
10 holding on to them, especially since they had restrictive
11 legends anyway so nobody could really trade them.

12 Q. Who attorney with a William Aul?

13 A. William Aul was David Levy's attorney, but also did some
14 legal services for the company direct.

15 Q. I'm going to ask you to look at what is in evidence -- so
16 you can put it up on the screen, Mr. Dinert, please --
17 Government Exhibit 250-12. Do you see there is a note at the
18 bottom there, Mr. Swartzburg?

19 A. Yes.

20 Q. It reads, "From Mosaic Hotel in Beverly Hills. Hi, Amy.
21 Please change down these 4 certs and FedEx them back to me.
22 Thanks. David." Do you know anything about any request to Amy
23 from David to send shares?

24 A. I don't think so. I don't remember any.

25 Q. Do you know who Amy is?

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1 A. Amy. There is an Amy that was at Standard Registrar that I
2 was dealing with, but I don't know if that's the same Amy.

3 Q. If you can look at what the four certificates are that are
4 included in Government Exhibit 250 that are referred to in the
5 note to Amy from David. I ask if you ever got these shares
6 back yourself. There is one, third page, to Moty Landau.
7 Fifth page, there is one to David Champion. Sixth page, there
8 is one to Kodel Investment. Seventh page, there is one to
9 David Newren.

10 A. I don't believe I ever received those certificates.

11 THE COURT: You did or did not?

12 THE WITNESS: I did not.

13 Q. After the reduction, the voluntary reduction, what type of
14 shares did Fotis Georgiadis get, restricted or free-trading?

15 A. I believe Fotis had unrestricted shares held in Bedrock
16 Ventures, and the certificates that were issued in name to
17 Fotis's what I believe are family members I believe carried a
18 restrictive legend on them.

19 Q. What conversations did you have with Fotis at the time he
20 received his reduced shares some of which for his family
21 members or for him had restricted and unrestricted stamps on
22 them?

23 A. He was very upset. He stated that they went in
24 unrestricted, they should have come back out unrestricted, and
25 he wanted me to help him remove the restrictions.

1 Q. What did he say about David Levy's shares that he had
2 received back after the reduction?

3 A. Fotis believed that David had better treatment. I think he
4 felt that maybe David had some unrestricted shares and that he
5 should also, Fotis should also, have unrestricted shares.

6 THE COURT: Ms. Cohen, is this a convenient place to
7 break?

8 MS. COHEN: It's perfect, your Honor.

9 THE COURT: Ladies and gentlemen, we are going to
10 break now and resume at 10 o'clock. Remember the instructions.
11 No independent research, don't talk about the case. Safe home
12 tonight. See you tomorrow morning at 10 o'clock. Please leave
13 the binders right there. We'll pick them up. Thank you.

14 (Continued on next page)
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1 (Jury not present; witness not present)

2 THE COURT: Are we going to get to the David Levy
3 transcripts tomorrow?

4 MR. MASTER: No, your Honor.

5 THE COURT: Let's pick up the books then.

6 MS. COHEN: We will collect them, your Honor.

7 THE COURT: Does anybody want to take up anything?
8 You're going to check on the attorney-client matter?

9 MR. MASTER: Yes, your Honor, I'll check on the issue
10 under U.S. v. GAF, what our position is, and we'll report back
11 to you.

12 THE COURT: Let me tell you what my position is
13 subject to further argument.

14 MS. COHEN: Please.

15 THE COURT: What you told Mr. Georgiadis attorney is
16 not privileged.

17 MR. MASTER: Absolutely, clearly. The only issue is
18 the admissibility of the letter as opposed to some other
19 information. I agree with that statement.

20 THE COURT: Mr. Shargel?

21 MR. SHARGEL: The only thing that I was going to say
22 is it even goes beyond the subject of attorney-client
23 privilege.

24 THE COURT: He is saying attorney-client privilege. I
25 didn't understand what the claim was.

1 MR. SHARGEL: I didn't understand the claim either.
2 You have this witness who is saying something different than
3 what the government knows to be the truth of what occurred
4 here. Whether we say that it's because of GAF or whether we
5 say it's because there is no privilege, the fact is that the
6 government has to make known to the jury, literally, they have
7 to make known that this testimony is contradicted by earlier
8 representations between the government and at least this
9 witness's attorney, the attorneys.

10 There is no question about the fact that certain
11 information was conveyed to him through his attorneys. There
12 is also agreement that it is coming back saying that he is
13 willing to cooperate, he wants to cooperate, but he wants this
14 year to go by.

15 However we get there, however we get there, the
16 information that is in the Giglio disclosure, a respectful and
17 substantive Giglio disclosure, should be known by the jury. I
18 believe that those are the true facts as opposed to this
19 hedging and ducking behind the lawyer-client privilege, then
20 sticking his head out.

21 THE COURT: Nobody asked you to say would you instruct
22 him there is no attorney-client privilege.

23 MR. SHARGEL: I think I did, Judge.

24 THE COURT: You asked very generally would I rule on
25 it. I'm more than happy to rule on it. You should have called

1 it to the witness's attention, and to my attention, did your
2 lawyer tell you X. You didn't say that, Mr. Srebnick.

3 MR. SHARGEL: Mr. Srebnick did say that. And I said
4 it as well. I think we both said it. We can point it out in
5 the record tomorrow.

6 THE COURT: The record will speak for itself.

7 MR. SHARGEL: This can be repaired, is the point.

8 MR. SREBNICK: Judge, from my perspective, the only
9 point beyond the impeachment is to simply communicate to the
10 jury that a benefit was conferred to Mr. Georgiadis that he is
11 not acknowledging. The government conferred the benefit of
12 delaying this entire investigation so that he could become a
13 citizen. That is the benefit that the jury needs to know Mr.
14 Georgiadis received, even if he doesn't want to admit he
15 received it, because there is no dispute that he did. I think
16 that's got to be stipulated to. Otherwise, we may have to call
17 the lawyer in to the trial, and that would really muck things
18 up.

19 THE COURT: You can call Mr. Georgiadis back.

20 MR. SREBNICK: He is going to continue to deny it,
21 apparently. The government may be our best witness at this
22 point.

23 MR. MASTER: Your Honor, first of all, I think the
24 Giglio letter speaks for itself, which is why I am going to
25 consult with our appeals unit about this. I think it conveys

1 exactly what happened. There was no side deal or secret
2 benefit. What happened was, as conveyed in the letter, Mr.
3 Georgiadis did retain counsel.

4 We did not charge Mr. Georgiadis, we had no present
5 intention of charging Mr. Georgiadis, although we had
6 subpoenaed him. I'll note that for the record, Mr. Nessum did
7 say that Mr. Georgiadis wanted to cooperate fully. He gave
8 factual information via attorney proffer, which is very common,
9 as Mr. Shargel knows and as Mr. Srebnick knows, having
10 represented many defendants who have tried to provide
11 information to the government initially through attorney
12 proffers.

13 He stated, he did state, and this is made clear in the
14 Giglio disclosure, that Mr. Georgiadis would like to come in
15 and cooperate. He did state that he was in the process of
16 applying for citizenship and requested that the government --
17 he stated that he would not bring Mr. Georgiadis in until that
18 process was completed. We had no ability to compel him to
19 testify unless we immunized him, which we didn't do.

20 So, that's what happened, not a secret side agreement.

21 THE COURT: Is any of that attorney-client privilege?

22 MR. MASTER: Absolutely not.

23 THE COURT: What about his testimony then to the
24 contrary?

25 MR. MASTER: His testimony, he was asked about his

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1 discussions with counsel. That's why I'm going to confer with
2 the appeals unit.

3 THE COURT: His discussions with counsel. I believe
4 the attorney-client privilege depends upon the client
5 communicating with the attorney. That's what's privileged.
6 Certainly the communication from the government to Mr.
7 Georgiadis via his attorney is not privileged under any stretch
8 of the imagination.

9 MR. MASTER: That is true. The only thing that I
10 don't know about, because I'm not -- Mr. Georgiadis's counsel
11 did not waive the privilege, as indicated in the letter.

12 THE COURT: What privilege is there?

13 MR. SHARGEL: It's not the lawyer's privilege. It's
14 the client's privilege.

15 MR. MASTER: On behalf of his client. Your Honor
16 let's table this for the moment. I will consult with our unit.
17 I think that there is some way in which it's clear what
18 happened will be put into the record. I hope that we can agree
19 with Mr. Shargel and Mr. Srebnick on how to do that.

20 MR. SHARGEL: Judge, I hope we can agree also. I want
21 to put one point before your Honor before we adjourn. There is
22 a deliberately created false impression that is before the jury
23 right now. I'll tell you what it is.

24 THE COURT: What is it?

25 MR. SHARGEL: That he cooperated through his

1 attorneys. Yes, I know what an attorney's proffer is and Mr.
2 Srebnick knows what an attorney's proffer is. But if you look
3 at the two proffer notes, there are two occasions where the
4 attorney comes in, maybe even on the telephone.

5 One, as I recall, doesn't even refer to the Levys at
6 all. The second does refer to the Levys in the briefest of
7 terms without any detail, without any flesh on the bone. It's
8 not like, yeah, I'm cooperating because I just want to stay
9 away from the government's offices but I'll tell everything I
10 know to my lawyers, who will make a proffer to the government.
11 It didn't happen that way.

12 This is a farce. This witness is ducking behind, as I
13 said, a privilege that doesn't exist. He wants to attribute
14 question 15, that's where he goes to the lawyer-client
15 privilege. That's why he answered question 15 the way he did,
16 that there is no crime that he ever committed that he didn't
17 get arrested for.

18 Obviously, there are three crimes. There is the crime
19 with respect to his lying -- well, I don't have to go through
20 all three. You know them.

21 THE COURT: You have already addressed all this before
22 the jury.

23 MR. SHARGEL: I did. I wasn't satisfied.

24 MR. MASTER: He can address it at summation. Your
25 Honor, let's take this up in the morning. I'm hoping that we

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1 will be able to each agreement.

2 THE COURT: Mr. Srebnick, anything?

3 MR. SREBNICK: I'm going to consult with my appellate
4 section, as well.

5 MR. SHARGEL: Which, by the way, is his brother.

6 MR. SREBNICK: My brother.

7 THE COURT: Mr. Shargel, could you give us the cites
8 for GAF and McKeon?

9 MR. SHARGEL: I know there are several GAFs. If I
10 may, I put in bill of particulars also. There are two
11 different bill of particulars that had been served. The
12 question was under the --

13 THE LAW CLERK: Both Second Circuit cases?

14 MR. SHARGEL: Yes.

15 THE COURT: What was GAF?

16 MR. SHARGEL: I don't remember. The McKeon is the
17 Irish gun runners case.

18 THE COURT: He was arrested right after he received
19 communion.

20 MR. SHARGEL: Right. The holding of the case is that
21 the government may be subject to admission of a party opponent,
22 or now it's been retitled statement of an opposing party.

23 THE COURT: OK.

24 MR. SHARGEL: Thank you, your Honor.

25 (Adjourned to 10:00 a.m., March 12, 2013)

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GOVERNMENT EXHIBITS

Exhibit No.	Received
S-5, 700-1, 700-2, 700-3, 700-4, 700-5, . . .	729
700-6, 520, 521, 525, 700-1-T,	
700-2-T, 700-3-T, 700-4-T,	
700-5-T, 700-6-T, 520-T,	
521-T, 525-T	
201-44741
201-6748
201-40752
3503-13725

DEFENDANT EXHIBITS

Exhibit No.	Received
3503-16671
3503-31683
A137749

[illegible]